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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CONNIE ONELY,
Plaintiff

v.

REDNER'S MARKETS, INC.
Defendant

: CIVIL ACTION

:

:

: No. 21-cv-4785

:

:

: Assigned to: Wendy Beetlestone, J.

EXHIBIT "C"

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CONNIE ONLEY

Plaintiff,

VS.

REDNER'S MARKETS, INC.

Defendant.

REMOTE videoconference of KARL MICHENER,
held on Monday, June 27, 2022, beginning at
approximately 11:05 a.m., before Robin A.
Vance, CCR, RPR and Notary Public for New
Jersey, Pennsylvania and Delaware.

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Selbyville, Delaware 19975
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KARL MICHENER

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A P P E A R A N C E S:

(ALL PARTICIPANTS WERE PRESENT REMOTELY)

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KARL MICHENER

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I N D E X

WITNESS	PAGE
KARL MICHENER	
BY MR. OLCESE	5

EXHIBITS REFERENCED

No.	DESCRIPTION	PAGE
D-2	Redner's Meat Department Listing (KS000696)	19
D-4	Transcript of Testimony (KS000227 to 000262)	84
D-5	10/1/20 Statement - Sandra McGrory (KS000317-320)	77
D-7	1/18/21 Statement - Karl Michener (KS000315)	95
D-8	Employee Warning Record (KS000316)	93

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1 (It is agreed by and between
2 counsel that reading, signing,
3 certification and sealing are hereby
4 waived; all objections, except as to the
5 form of the questions, are reserved until
6 the time of trial.)

7 COURT REPORTER: The attorneys
8 participating in this proceeding
9 acknowledge that I am not physically
10 present with the witness and that I will
11 be reporting this proceeding remotely.

12 They further acknowledge that, in
13 lieu of an oath administered in person,
14 the witness will verbally declare that his
15 testimony in this matter is under penalty
16 of perjury.

17 The parties and their counsel
18 consent to this arrangement and waive any
19 objections at this time.

20 Counsel also acknowledges and
21 agrees that the official transcript is
22 solely the one transcribed by the court
23 reporter.

24 Counsel, please indicate your

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1 agreement by stating your name and your
2 agreement on the record beginning with
3 Plaintiff's counsel.

4 MR. OLCESE: Andrew Olcese for the
5 plaintiff. I consent and agree.

6 MR. ELLIOTT: Jeffrey Elliott for
7 the defendant. I also consent and agree.

8 - - -

9 KARL MICHENER, having been duly
10 sworn, was examined and testified as
11 follows:

12 - - -

13 EXAMINATION

14 - - -

15 MR. OLCESE: Usual stipulations,
16 Jeff?

17 MR. ELLIOTT: Yes.

18 BY MR. OLCESE:

19 Q. Good morning, Mr. Michener. My name
20 is Andrew Olcese. I represent the plaintiff,
21 Connie Onley, in a lawsuit against Redner's.
22 You're here for your deposition.

23 So my first question, have you ever
24 been deposed before?

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1 A. No.

2 Q. Okay. So let me explain a little bit
3 of the groundwork; what this is, what to expect.
4 Pretty much this is a question-and-answer
5 session. It's an opportunity for me on behalf of
6 Miss Onley to ask you questions and find out what
7 you know regarding her employment at Redner's and
8 her termination. Okay?

9 Obviously we are doing this
10 remotely. You and I can see each other, we can
11 hear each other. But even though I can see you,
12 if you're going to respond to any of my questions
13 that could be answered with just a yes or a no,
14 and you answer in like a head nod or a head bob,
15 the court reporter Robin is not going to be able
16 to write that down. So I might, if you do that,
17 ask you just to respond verbally, is that a yes
18 or is that a no. Is that understood?

19 A. Understood.

20 Q. Also, if you say, in the affirmative,
21 like uh-huhs or uh-uhs, words like that, I might
22 be able to understand, but again it's not going
23 to be clear on the transcript later on. I'm
24 going to ask if that's a yes or a no, depending

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KARL MICHENER

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1 what your response is. Okay?

2 A. Understood.

3 Q. Probably the most important thing I
4 can ask of you today, and it's for Robin's
5 benefit, is that we take our time. Okay? So
6 take our time and then one person speaks at a
7 time. So with that being said, I'm going to ask
8 that even if you know what question I'm about to
9 ask, that you refrain from responding in
10 answering my question until I fully get it out.
11 And I'm going to try to wait and make sure you
12 fully response as best as you want until I move
13 on to the next question. Okay?

14 A. Understood.

15 Q. All right. If you don't understand
16 any of my questions at any time today, please let
17 me know. I am not trying to confuse you. I am
18 happy to clarify something, ask it another way.
19 But I'm going to assume that if you're able to
20 answer my question and provide a response, that
21 you understood what was being asked. Okay?

22 A. Understood.

23 Q. All right. At any time if your
24 counsel objects to my question and states it for

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1 the record, you will still need to answer my
2 question, even with an objection, unless Jeff
3 explicitly tells you not to answer that question.
4 Okay? Now, I don't expect that to happen today,
5 but if it does, do you understand that?

6 A. Understood.

7 Q. All right. If you need a break at
8 all, Mr. Michener, please let me know. Not an
9 endurance test. Certainly I don't think we're
10 going to be here all morning, but if you need to
11 stand, up use the restroom, get a bite to eat,
12 the only thing I ask is that you are answering
13 any pending questions before we take a break.
14 Okay?

15 A. Yes, sir.

16 Q. All right. Any questions about my
17 instructions?

18 A. No, sir.

19 Q. Are you on any medication this morning
20 that would inhibit your ability to recall past
21 events?

22 A. No, sir.

23 Q. All right. And is there any reason
24 you can think of that you won't be able to answer

KARL MICHENER

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1 my questions fully and truthfully today?

2 A. No, sir.

3 Q. Very good. Can you please state your
4 full name for the record?

5 A. Karl Michener.

6 Q. Okay. Are you known by any other
7 names?

8 A. No, sir.

9 Q. What is your current home address?

10 A. 1111 South Sanatoga Road.

11 Q. Okay. And your date of birth, please?

12 A. 7/9/1984.

13 Q. And currently, where are you taking
14 today's deposition?

15 A. I'm sorry, I don't know the address
16 exactly here.

17 Q. Are you at your counsel's office?

18 A. Offices, yes.

19 Q. All right. And I see Mr. Elliott is
20 there with you. Is there anyone else in the room
21 other than yourself and Mr. Elliott?

22 A. No, sir.

23 Q. Okay. And what, if anything, have you
24 done to prepare for today's deposition?

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1 A. I was shown some paperwork, the
2 complaint, also the response from the employer.
3 I was shown some of Miss Onley's work history,
4 her personnel file. I was shown her deposition.

5 Q. Okay. And who -- who or whom showed
6 you these documents?

7 A. Mr. Elliott.

8 Q. Okay. And when you say you were shown
9 Miss Onley's deposition, are you referring to you
10 were able to review the transcript from her
11 deposition?

12 A. Yes, sir.

13 Q. Okay. And when did you review these
14 documents?

15 A. I don't recall the date. It was the
16 week of the 11th, June 11th.

17 Q. Okay.

18 A. We met in that week before I went on
19 vacation.

20 Q. And other than any conversations you
21 had with your counsel in preparation for this
22 deposition, did you speak to anyone else about
23 today's deposition?

24 A. No.

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1 Q. Did you ever talk to Miss Foreman
2 about your deposition today?

3 A. No.

4 Q. Did you ever talk to Miss McGrory
5 about your deposition today?

6 A. No.

7 Q. Okay. And I apologize in advance, I
8 ask everyone this question who I depose, have you
9 ever been criminally convicted of a crime?

10 A. No.

11 Q. Okay. Are you currently employed?

12 A. Yes, sir.

13 Q. And where are you currently employed?

14 A. Redner's Markets.

15 Q. Is there a particular store that you
16 work out of?

17 A. I'm at the Potts Grove location,
18 number 36.

19 Q. And what's that address?

20 A. I don't have it memorized. I just was
21 transferred there recently.

22 Q. When were you transferred there?

23 A. In April.

24 Q. 2022?

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1 A. Correct.

2 Q. Okay. Prior to being transferred to
3 the Potts Grove location, where did you work
4 previously?

5 A. Our Audubon location, number 67.

6 Q. Okay. The transfer to Potts Grove,
7 was that by your choice or was it by someone else
8 in upper management?

9 A. Upper management.

10 Q. Do you know why you were transferred
11 to Potts Grove?

12 A. The store director that was there was
13 promoted to a supervisory position and they chose
14 me to take his place.

15 Q. Okay. And what is your position
16 currently at Potts Grove?

17 A. Store director.

18 Q. Store director, is that analogous to
19 store manager?

20 A. Yes.

21 Q. Is it fair to assume that at Potts
22 Grove, in that location, you are the highest
23 ranking title?

24 A. Yes.

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1 Q. Okay. When did you start working at
2 the Audubon location?

3 A. September 4, 2019, approximately.

4 Q. Okay. And when you started at Audubon
5 on September 4, 2019, what position did you hold?

6 A. Store director.

7 Q. Fair to say the entire time you were
8 at Audubon you were the store director?

9 A. Correct.

10 Q. Okay. Did you work at Redner's prior
11 to September 4, 2019?

12 A. Yes.

13 Q. Okay. Where did you work prior to
14 September 4, 2019?

15 A. Many locations.

16 Q. All right. So let's go back in order.
17 Prior to Audubon, what location most recent to
18 starting at Audubon did you work out of?

19 A. Our Douglassville location, number 87.

20 Q. And when did you start at
21 Douglassville?

22 A. 2017.

23 Q. Okay.

24 A. Maybe June or thereabout. May, June.

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1 Q. Understood. And I appreciate like
2 you're doing already. I know I'm going to be
3 asking you a couple things years back. You know,
4 as best you can ballpark or approximate is fine.
5 I appreciate that.

6 A. Understood.

7 Q. In Douglassville, what position or
8 positions did you hold?

9 A. Store director.

10 Q. Okay. For the entire time at
11 Douglassville?

12 A. Correct.

13 Q. Prior to working at the Douglassville
14 location, what location, if any, did you work in
15 Redner's?

16 A. Our Boyertown location, number 97.

17 Q. And when did you start at Boyertown?

18 A. Approximately a year and a half
19 previous to Douglassville, so 2016, maybe 2015.

20 Q. Okay. And what position or positions
21 did you hold in Boyertown?

22 A. Store director.

23 Q. When did you start working for
24 Redner's at any location?

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1 A. My initial hire was in 2005 in June.
2 I was part time through college. I was hired
3 full time in 2006 after I graduated from college.

4 Q. And when you were hired in 2006 full
5 time, what position were you hired into?

6 A. Frozen clerk.

7 Q. Is it fair to assume after being hired
8 as a frozen clerk, you continued to work at
9 Redner's full time since 2006 to the present?

10 A. Correct.

11 Q. Okay. And then from that time, you
12 obviously worked your way up in the position to
13 eventually become store director?

14 A. Correct.

15 Q. When did you become store director?

16 A. 2015, I believe.

17 Q. And was that the Boyertown location?

18 A. That was actually at the Red Hill
19 location, number 31.

20 Q. Okay. So in 2015 at some point is the
21 first time you became a store director at the Red
22 Hill location, correct?

23 A. I believe it was 2015, yes.

24 Q. Okay. Very good. Your current job

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1 duties as the store director at Potts Grove, have
2 they changed at all from the job duties you had
3 when you were the store director at Audubon?

4 A. The store doesn't have a gas station,
5 so that's slightly different. But as far as the
6 day-to-day, it is the same.

7 Q. Okay. So excluding the job duties you
8 may have had with the gas station at Audubon,
9 generally describe what job duties you had as
10 store director when you worked at Audubon.

11 A. Um, I was in charge of all day-to-day
12 operations; hiring, terminations, other human
13 resources, problem solving, ordering,
14 merchandising, training, customer service
15 obviously, budgeting. That's a basic outline of
16 what I do, I suppose.

17 Q. Okay. When you worked at Audubon, did
18 that location have its own personal human
19 resources department?

20 A. No.

21 Q. So you mentioned you did a little bit
22 of human resources. Would you serve as the human
23 resources personnel while you were the store
24 director at Audubon?

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1 A. It's one of the duties, yes.

2 Q. Okay. But am I correct that if human
3 resources, for instance the human resources
4 department, needs to be engaged by you, that's
5 done at a corporate level?

6 A. We do have a corporate level human
7 resources department, yes.

8 Q. Okay. All right. Is it fair to
9 assume that while you were store director at
10 Audubon, you're also in charge of managing all of
11 the different department managers?

12 A. Yes.

13 Q. Okay. And estimating, ballpark, how
14 many different departments did you oversee at
15 Audubon?

16 A. Eight, nine.

17 Q. And one of those departments being the
18 meat department; is that correct?

19 A. Correct.

20 Q. When you were overseeing the Audubon
21 location, who was the manager of the meat
22 department?

23 A. Marcos Mercon.

24 Q. M-E-R-C-O-N, correct?

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1 A. Correct.

2 Q. Mr. Michener, I'm going to show you my
3 first exhibit today. Throughout the course of
4 this deposition, I'm going to share my screen and
5 show a number of documents to you. With any
6 document I show you, take as much time as you
7 need to look it over, if you like, but generally
8 I'm going to direct your question maybe to a
9 certain area for a few questions. Okay?

10 A. Understood.

11 MR. ELLIOTT: As we have done in
12 the past, I'm going to -- anticipating
13 that you're going to be doing this,
14 Andrew, I'm going to have a hard copy to
15 put in front of the witness so that he can
16 opt in to looking at it in both media.

17 MR. OLCESE: That's perfectly fine.

18 BY MR. OLCESE:

19 Q. And, Mr. Michener, whatever is easier
20 for you. Okay?

21 A. Yes, sir.

22 (Document being shown.)

23 BY MR. OLCESE:

24 Q. Okay. All right. Mr. Michener, I

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1 just shared my screen and I am showing a document
2 I premarked as D-2. On the bottom right is a
3 designation and number that us attorneys call a
4 Bates stamp. It's only for legal purposes for
5 identification. This one is Bates stamped KS696.
6 Okay? With any document, and I apologize for not
7 mentioning this earlier, please let me know if
8 you'd like me to scroll up or down, or Zoom in or
9 out to make it more visible to you. Okay?

10 A. Yes, sir.

11 Q. So I want to focus on, if I may, the
12 middle section of this document marked D-2.
13 Okay? Do you recognize this document?

14 A. I believe I saw it as part of what I
15 was shown for the case.

16 Q. For your preparation?

17 A. Yes.

18 Q. Okay. And can you see the names on
19 the left side of the chart that I'm circling with
20 my cursor right now?

21 A. Yes.

22 Q. Okay. It's my understanding that
23 these are the individuals six months prior to
24 October 5, 2020 who worked in the meat department

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1 at Audubon. Take a look at those names and let
2 me know if you believe that's accurate.

3 A. (Reviewing document). To the best of
4 my knowledge.

5 Q. Okay. All right. And I know now you
6 don't work at Audubon, you're at Potts Grove, but
7 out of the seven names listed here, who of those
8 do you know does not work for Redner's currently?

9 A. Thomas Haley I'm not familiar with.

10 Q. Okay.

11 A. Herman Narvaez I'm not familiar with.
12 David Mosteller no longer works for Redner's.
13 The bottom four do, as far as -- I'm sorry, the
14 next three do; Shaun, Marcos and Sandra. Connie
15 does not?

16 Q. Okay. So starting with Mr. Thomas
17 Haley, you don't know whether he currently works
18 for Redner's or not; is that accurate?

19 A. I believe he was terminated, but I was
20 not involved in that.

21 Q. Okay. Do you know why he was
22 terminated?

23 A. I can't say for sure --

24 Q. Okay.

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1 A. -- why.

2 Q. Do you have a belief why he was
3 terminated?

4 A. If I remember, there was discussion
5 about possibly on-the-job drinking or coming in
6 intoxicated, at any rate.

7 Q. Okay. And on the right, termination
8 date, there's a listing for September 24, 2019.
9 Does that sound accurate to you?

10 A. I don't know.

11 Q. Okay. And Mr. Herman Narvaez, am I
12 correct you don't know whether that individual
13 works for Redner's currently or not?

14 A. Correct.

15 Q. Okay. And then Mr. David Mosteller
16 you said was terminated as well, correct?

17 A. Correct.

18 Q. There's a termination date listed,
19 September 27, 2021. Do you believe that date to
20 be accurate?

21 A. Yes.

22 Q. Do you know why Mr. Mosteller was
23 terminated?

24 A. Dave was cleanup and didn't want to do

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1 cold -- didn't want to work in the cold anymore.

2 Q. What does that mean, just specify?

3 A. Our prep room is refrigerated where
4 they cut the meat. He was our cleanup guy and
5 just -- he's an older gentleman and I think he
6 had enough of working in 50-degree weather
7 essentially in the department while he was
8 cleaning up. I don't think he wanted to do it
9 anymore.

10 Q. Were you involved in his termination?

11 A. Termination so far as I sent the
12 termination through. It wasn't a disciplinary
13 action or anything. It's just a separation
14 essentially, but, yes.

15 Q. Well, just to kind of clarify then, do
16 you believe his separation was voluntary or was
17 it involuntary?

18 A. Voluntary.

19 Q. Okay. Understood. And then just to
20 clarify, Shaun Rhoton, Marcos Mercon, and Sandra
21 McGrory still work for Redner's, right?

22 A. Yes.

23 Q. Okay. In the middle of this chart
24 we're looking at on D-2, it writes the ethnicity

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1 of the individuals that work that we just went
2 through. Is it accurate to your assessment that
3 Miss Onley was the only Black or African-American
4 employee within the meat department?

5 A. Yes.

6 Q. Okay. All right. Mr. Michener, you
7 work full time, correct?

8 A. Yes.

9 Q. Has your schedule remained the same
10 throughout the time you've worked at the Potts
11 Grove location?

12 A. I don't have a set schedule.

13 Q. Okay. So you don't work, for
14 instance, Monday through Friday, like 9 a.m. to 5
15 p.m., anything like that?

16 A. No, sir.

17 Q. Okay. Is there any way you can
18 describe for me what are the days and hours you
19 work currently?

20 A. In general the start time is 6 a.m.
21 for store directors. I usually follow that. We
22 do have to cover for our evening managers. That
23 is on Thursdays and Fridays normally. So I might
24 have to work a Thursday night or a Friday night

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1 or both. I don't have set days that I'm off
2 normally. I try to take off Wednesdays. Other
3 than that, it's fair game. I work based off of
4 our business.

5 Q. Understood. And that kind of
6 schedule, so to speak, that necessitates to work
7 when business dictates it, how it is right now
8 for Potts Grove, is that how it was also during
9 your time at Audubon?

10 A. Yes.

11 Q. Did you also try to generally take off
12 Wednesdays at Audubon when you could?

13 A. I did, yes.

14 Q. Okay. All right. And in your role as
15 store director -- so I want to try to focus now
16 during your time at Audubon, if I may -- did you
17 have any direct reports that were under your
18 supervision?

19 A. Could you explain that in a different
20 way?

21 Q. Sure. Were there any positions or
22 individuals that directly reported to you while
23 were you store director at Audubon?

24 A. I have an assistant manager and a

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1 grocery manager. And then all the department
2 managers I would say were mine, direct reports.

3 Q. Okay. In terms of hierarchy, the
4 assistant manager is second only to the store
5 director at any location?

6 A. Correct.

7 Q. All right. So when you're at Audubon,
8 who or whom were the assistant managers that
9 worked underneath you at Audubon?

10 A. James Schlegel. He opened the store
11 with me.

12 Q. And did Mr. Schlegel remain your
13 assistant manager throughout the entire time you
14 worked at Audubon?

15 A. While he was at Audubon, yes.

16 Q. So my question, just to clarify, is,
17 you did not have any other assistant manager
18 during your time at Audubon?

19 A. I had another assistant manager,
20 Dakota Loose.

21 Q. How do you spell Dakota's last name?

22 A. L-O-O-S-E.

23 Q. As of October 2020, who was your
24 assistant manager?

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1 A. James Schlegel.

2 Q. Okay. When did he become your
3 assistant manager?

4 A. Same date that we started, the 4th of
5 September, 2019.

6 Q. And when did Mr. Schlegel not be your
7 assistant manager, so to speak; when did he
8 either leave that position or leave Redner's and
9 you had Mr. Loose as your assistant manager?

10 A. I don't recall the date.

11 Q. Can you narrow the year?

12 A. '20, '21.

13 Q. Okay. Do you know if Mr. Schlegel
14 currently works for Redner's?

15 A. He does.

16 Q. And what is his current position if
17 you know?

18 A. Assistant.

19 Q. And where does he work?

20 A. Potts Grove.

21 Q. Okay. So is he currently your
22 assistant manager at Potts Grove?

23 A. Yes.

24 Q. So am I correct that at some point in

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KARL MICHENER

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1 2021, Mr. Schlegel transferred from Audubon to
2 Potts Grove?

3 A. Correct.

4 Q. Okay. All right. And is it fair to
5 assume obviously as store director, that even
6 though the grocery manager and the assistant
7 manager are your direct reports, meaning they
8 directly report to you, all the department
9 managers also report to you if necessary,
10 correct?

11 A. Correct.

12 Q. All right. When you were the store
13 director at Audubon, who did you directly report
14 to?

15 A. My district manager, James Polchin.

16 Q. And how do you spell Mr. Polchin's
17 last name?

18 A. P-O-L-C-H-I-N.

19 Q. Okay. Was Mr. Polchin your district
20 manager the entire time you worked at Audubon?

21 A. No, he retired and was replaced by
22 Brian Golden, G-O-L-D-E-N.

23 Q. When did Mr. Polchin retire?

24 A. April of 2021, I believe.

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1 Q. Okay. Other than Mr. Polchin and
2 Mr. Golden, did you report directly to anyone
3 else while you were working at Audubon?

4 A. No.

5 Q. Okay. I understand that Redner's has
6 a position called regional manager; is that
7 accurate?

8 A. You may be referring to our department
9 supervisors.

10 Q. Okay. Let me ask you this.
11 The district managers, do you know
12 what position they report to?

13 A. Our vice president of grocery
14 operations.

15 Q. Okay. Do you know an Alexis Foreman?

16 A. Yes.

17 Q. What position, to your knowledge, does
18 she currently have?

19 A. She's a director in human resources.

20 Q. Okay. And when you worked at Audubon,
21 was she in that same position?

22 A. Yes.

23 Q. Would you consider her one of your
24 direct reports, who you -- excuse me -- who you

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KARL MICHENER

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1 would directly report to?

2 A. Could you repeat that?

3 Q. Was Miss Foreman someone, when you
4 worked at Audubon, that was one of your
5 supervisors?

6 A. She is a supervisor that, I don't
7 report to them, but ask for support from. My
8 direct supervisor is Brian Golden. If I have a
9 human resources issue, I'd go to human resources.

10 Q. Okay. Understood. And when you say
11 if you had to go to human resources, is Miss
12 Foreman the individual you would go to when you
13 worked at Audubon?

14 A. Sometimes. There's also Randy --
15 Randall Kostelac, the other human resources
16 manager at the corporate office.

17 Q. And do you know how to spell Randall's
18 last name?

19 A. K-O-S-T-E-L-A-C.

20 Q. Okay. And to your understanding then,
21 Mr. Kostelac was also a director of human
22 resources?

23 A. Yes.

24 Q. Okay. How would you determine -- or,

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KARL MICHENER

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1 you know, whether you would reach out to Miss
2 Foreman or Mr. Kostelac for any HR question or
3 support you needed?

4 A. Alexis handles employees specifically,
5 issues, concerns, assistance with that.
6 Mr. Kostelac handles training. So depending on
7 what my issue was, I would try to determine --
8 and of course they can both handle any issue, but
9 they were separated as far as designated roles,
10 so that you could kind of forward any issues to
11 the direct -- the right person initially.

12 Q. Understood.

13 A. But they handle everything.

14 Q. Right. Understood. But when it came
15 to any issues you might have had with the
16 employees, for instance, maybe issuing discipline
17 to employees, am I correct to assume that
18 generally you would go to Miss Foreman rather
19 than Mr. Kostelac?

20 A. Yes.

21 Q. All right. Okay. And you mentioned
22 that they're located at Redner's corporate
23 address. Do you know what that address is?

24 A. I believe it's 3 Quarry Road in

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KARL MICHENER

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1 Reading.

2 Q. Have you ever met Mr. Kostelac in
3 person?

4 A. Yes.

5 Q. Is it a practice, to your knowledge,
6 for these -- for Mr. Kostelac to visit the stores
7 on a regular basis?

8 A. Could you quantify regular?

9 Q. Well, however you define regular.

10 A. I would see them -- we have weekend
11 visitation where they have to work every six
12 weeks or so. They'll be put on rotation per
13 weekend, so I might see him if my store was
14 designated for him to visit. And he would also
15 come out just to visit, talk to management,
16 employees. But I had no way of knowing if that
17 was going to happen, nor do I know its frequency
18 as far as they're required to do.

19 Q. Understood. Okay. And the same for
20 Miss Foreman; have you ever met Miss Foreman in
21 person?

22 A. Yes.

23 Q. Okay. And do you have any
24 understanding if part of her practice is to visit

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KARL MICHENER

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1 the stores on a regular basis?

2 A. In the same way I described it for
3 Mr. Kostelac.

4 Q. Okay. Has there ever been an occasion
5 where you and Miss Foreman met in person to
6 discuss an employee issue you were trying to
7 resolve?

8 A. Not that I can recall.

9 Q. Okay. All right. Does Redner's have
10 an employee handbook?

11 A. Yes.

12 Q. And are you familiar with that
13 handbook?

14 A. Fairly.

15 Q. Is the employee handbook kept at the
16 store location in Potts Grove for employees to
17 review if necessary?

18 A. They all have access to it online and
19 it can be printed very easily. I've done that
20 many times for employees.

21 Q. Okay. And I framed my question just
22 speaking of Potts Grove. To your understanding,
23 is that the same as it was in Audubon when you
24 were the store director?

KARL MICHENER

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1 A. Yes.

2 Q. Okay. To your knowledge, has that
3 employee handbook been updated or edited since
4 October of 2020?

5 A. I don't believe it's been updated
6 since then, no.

7 Q. Okay. Are you aware of Redner's
8 discipline policy?

9 A. Yes.

10 Q. Is it fair to say that Redner's has a
11 progressive discipline policy?

12 A. Yes.

13 Q. And how would you describe that
14 progressive discipline policy?

15 A. Depending on the infraction, you can
16 start with verbal conversation, hey, this is a
17 problem; you can do a counseling form, so this is
18 the issue, this is how we need to handle it; and
19 then in general we go to a warning form, you're
20 still continuing to break this policy. And then,
21 you know, you go to suspension and review with
22 human resources. Of course, and it's stated in
23 the handbook that you can go to any position in
24 that disciplinary procedure, depending on what

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KARL MICHENER

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1 happens, depending on the infraction.

2 Q. Okay. So depending on the infraction,
3 the progressive discipline policy as you
4 described with a verbal, counseling, warning,
5 suspension, does not always need to be followed
6 in that order; is that right?

7 A. Correct.

8 Q. Okay.

9 A. You can go to any stage depending on
10 the infraction.

11 Q. And when you say you can go to any
12 stage depending on the infraction, just speaking
13 of positions, who makes the decision as to
14 whether an infraction should be a counseling
15 versus a warning versus immediate termination?

16 A. I believe that would depend on the
17 infraction again. Employee not taking a break
18 punch, or having issue with a time card, minor
19 infraction, you follow that. You wouldn't
20 require, you know, support from human resources.
21 If another employee stole from another employee,
22 I'm going to get human resources or possibly loss
23 prevention involved. So it depends on the
24 infraction, I suppose.

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KARL MICHENER

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1 Q. Okay. In your role as store director
2 since Audubon, as part of your job duties do you
3 have sole discretion to terminate employees?

4 A. No.

5 Q. So, am I fair to assume then you would
6 need to consult with someone before reaching a
7 decision to terminate?

8 A. I'm sorry to say, but again I think it
9 would defend -- it would depend on what was
10 happening. If it was a no-call/no-show, they
11 didn't show up for two days in a row, it's in our
12 handbook that that's job abandonment and it's a
13 terminable offense. I don't need to get
14 somebody's approval to move forward with that.

15 Q. Okay. So you do have the ability to
16 terminate employees at your own discretion for
17 some infractions?

18 A. Correct.

19 Q. Okay. And other than your example of
20 no-call/no-show two days in a row, you can make
21 the decision to terminate that employee, are
22 there any other infractions you're aware of where
23 you do not need to consult with anyone else at
24 Redner's and you make the decision to terminate

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KARL MICHENER

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1 someone?

2 A. I'm sorry for taking time. There's
3 just a lot of things people can do.

4 Q. Take your time with any question.

5 A. Okay. Could you just repeat it one
6 more time.

7 Q. Yeah. So you gave me an example of
8 where you can decide to terminate an employee on
9 your own without consultation, and that was if an
10 employee has a no-call/no-show two days in a row
11 because, as you say, that's job abandonment in
12 the handbook. So I'm asking you, other than that
13 example, that infraction, is there any other
14 infraction where you have the ability to decide
15 at your own discretion without consultation
16 whether to terminate an employee or not?

17 A. There may be, but I don't operate that
18 way. Is that helpful?

19 Q. So it's never happened in your time as
20 store director at any location other than
21 no-call/no-show, you can terminate someone?

22 A. I can't recall another situation.

23 Q. Okay. So is it fair to assume then,
24 if there is a performance issue or a discipline

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KARL MICHENER

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1 issue regarding an employee, and termination is a
2 consideration, it's your practice to consult with
3 someone before reaching that decision?

4 A. Most often my district manager I would
5 say, or human resources, yes.

6 Q. Okay. So let me break that again.
7 You say most often. So is there an instance
8 you're thinking of where you would not consult
9 with your district manager or human resources
10 when it involves an employee discipline or
11 performance issue?

12 A. You are asking me about termination,
13 not discipline?

14 Q. Correct.

15 A. So if I'm terminating somebody, my
16 practice is to get the opinion or direction from
17 a supervisor. It could be a department
18 supervisor, it could be my district manager, it
19 could be human resources.

20 Q. Okay.

21 A. In general I try not to terminate as a
22 first response to somebody's disciplinary
23 problems or lack of ability, you know, that kind
24 of thing. That's not obviously what we want to

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KARL MICHENER

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1 do is fire people all day. That's not what we're
2 trying to do.

3 Q. Understood. And in your practice,
4 when you're consulting with someone in human
5 resources about terminating an employee for
6 either performance issues or discipline, is -- am
7 I correct that the person you consult with, at
8 least as of the time you were working at Audubon,
9 Miss Foreman?

10 A. Yes.

11 Q. Okay. Is there anyone else in human
12 resources while you worked at Audubon that you
13 would consult with in the human resource
14 department?

15 A. Mr. Kostelac, and then their boss or
16 direct report would be Bob McDonough.

17 Q. And do you know Mr. McDonough's
18 position as of when you worked at Audubon?

19 A. Vice president of human resources, I
20 believe.

21 Q. Okay. Am I correct to assume that
22 department managers do not have the ability to
23 terminate an employee without getting consent
24 from you --

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KARL MICHENER

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1 A. Correct.

2 Q. -- if you were the director? Right?

3 Okay. All right.

4 Can a department manager issue an
5 employee discipline without your knowledge or
6 consultation?

7 A. They can.

8 Q. Okay. All right. Do you recall the
9 employment of Connie Onley?

10 A. Yes.

11 Q. Okay. And do you know when she
12 started at the Audubon location?

13 A. We opened October '19, so I would say
14 it would be within that week, so previous to
15 that, leading up to.

16 Q. So she --

17 A. Perhaps.

18 Q. Sorry about that.

19 So she started with Audubon when
20 the store opened, correct?

21 A. Correct.

22 Q. Okay. And was it your understanding
23 that she had worked for Redner's prior to working
24 at the Audubon location?

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1 A. Yes.

2 Q. Okay. What store did she previously
3 worked at before Audubon?

4 A. Lansdale, number 63.

5 Q. Okay. And is it your understanding
6 that she was transferred from Audubon to Lansdale
7 around October of 2019?

8 A. Yes.

9 Q. Did you have to approve that transfer?

10 A. No.

11 Q. Were you part of the decision to
12 transfer her?

13 A. No.

14 Q. Did you know about Connie Onley before
15 she started working at Audubon?

16 A. No.

17 Q. What position did she hold while
18 working at Audubon?

19 A. She was a meat wrapper. That entails
20 a lot of things in our meat department. Seafood
21 was her main gig, I suppose.

22 Q. Okay. And fair to assume that
23 Mr. Macrone was her direct supervisor?

24 A. Mercon, yes.

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KARL MICHENER

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1 Q. Mercon, excuse me.

2 And on occasion, were you able to
3 observe her work at the Audubon location?

4 A. Yes.

5 Q. Were you able to speak with her and
6 get to know her while she worked at Audubon?

7 A. Yes.

8 Q. How would you describe her performance
9 as a meat wrapper when you worked with her?

10 A. Connie was very good with our guests.
11 She presented a very nice seafood case. She was
12 pleasant.

13 Q. Did you ever do -- did you ever
14 conduct performance evaluations for Miss Onley?

15 A. No.

16 Q. Okay. Do you know if she was ever
17 disciplined while working at Audubon pertaining
18 to her performance?

19 A. I don't believe so.

20 Q. You mentioned that she was pleasant.
21 Is it fair to assume that personally you two got
22 along when you worked together?

23 A. I thought so.

24 Q. Okay. And you understand that at some

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KARL MICHENER

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1 point Miss Onley's employment at Redner's was
2 terminated, correct?

3 A. Yes.

4 Q. Fair to assume that was involuntary
5 rather than voluntary separation?

6 A. I believe she still wanted to work
7 with us, yes.

8 Q. Okay. And do you know when she was
9 terminated from Redner's?

10 A. October of 2020.

11 Q. And who made the decision to terminate
12 Miss Onley?

13 A. Miss Foreman.

14 Q. Did you make the decision as well?

15 A. No.

16 Q. Did you recommend to Miss Foreman that
17 Miss Onley be terminated?

18 A. No.

19 Q. Did you recommend against Miss Onley's
20 termination?

21 A. No.

22 Q. What was your understanding why Miss
23 Onley was terminated?

24 A. Violation of our sexual harassment

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KARL MICHENER

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1 policy.

2 Q. And just to clarify, how did Miss
3 Onley, in your estimation, violate Redner's
4 sexual harassment policy?

5 A. She admitted to me that she spoke
6 about playing a prank on Mr. Rhoton by placing a
7 dildo in his meat coat pocket, and also admitted
8 to speaking about using a dildo after watching a
9 movie called 50 Shades of Gray.

10 Q. Okay. And after she informed you of
11 this, was it your estimation that Miss Onley
12 violated the sexual harassment policy?

13 A. I investigated and gave the
14 information to Miss Foreman, who determined that
15 she broke that policy.

16 Q. Okay.

17 A. My opinion is -- it's not my place to
18 determine whether or not she should be terminated
19 or not in that sense.

20 Q. And why do you say that?

21 A. Because it's -- she broke a policy, I
22 was instructed to investigate and then I gave
23 that information to Alexis. She's the direct --
24 a director in human resources. I'm the store

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KARL MICHENER

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1 director. She makes that decision above me.

2 Q. Okay. So I'm going to be working a
3 little bit backwards, but I just want to stay on
4 this since we're talking about it.

5 To your knowledge, how did you
6 first find out about this incident, I'll describe
7 it, with Miss Onley trying to play a prank on
8 Mr. Rhoton and discussing everything else you
9 just described?

10 A. The statement from Miss McGrory.

11 Q. Okay. And that was a written
12 statement, correct?

13 A. Correct.

14 Q. All right. Do you know when you
15 learned of Miss McGrory's written statement?

16 A. I learned of it when I got to work.
17 It was an afternoon shift for me. I started at 1
18 or 1:30 on a Thursday, so it would have been the
19 end of September, approximately.

20 Q. And who informed you of Miss McGrory's
21 statement?

22 A. It was there for me to read in my
23 office.

24 Q. So if I'm correct, you came in your

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KARL MICHENER

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1 office that day to start your shift and there was
2 just a written statement on your desk and you
3 just read it; is that how it happened?

4 A. So I -- when I come into my store, I
5 walk the perimeter and greet my employees, any
6 guests, and heard about the incident that was the
7 catalyst to the statement. So I had prior
8 knowledge of something going on before I read the
9 statement, but didn't know the entirety of the
10 situation until I read Miss McGrory's statement.

11 Q. Okay. So when you first came in and,
12 as you say, you were aware of the incident that
13 was the catalyst for the statement, how did you
14 find out about the incident the very first time
15 and who told you about the so-called incident?

16 A. James Schlegel, my assistant, told me
17 about -- started to fill me in and said there was
18 a statement to read.

19 Q. Did he tell you this in person when
20 you entered the store?

21 A. Yes.

22 Q. Okay. So he -- you arrive at the
23 store, you're greeting everyone as part of your
24 practice, your assistant manager comes up, says,

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KARL MICHENER

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1 hey, we had an incident, there's a statement in
2 your office, and then you go to read it; is that
3 accurate?

4 A. Yes. I'm sure other things happened
5 in the time between me learning of it and getting
6 to my office and all that, but -- you know, I'm
7 running a grocery store, so there's lots of
8 things going on of course.

9 Q. No, I understand. After you read the
10 statement, what do you do in terms of any
11 investigation or anything regarding the incident;
12 what is your first course of action?

13 A. I contacted Miss Foreman.

14 Q. Okay.

15 A. For direction.

16 Q. I'm sorry. How did you contact her?

17 A. By phone.

18 Q. Okay. So you have a phone
19 conversation, the very same day you look at the
20 statement, with Miss Foreman. Do you remember
21 what you discussed with her?

22 A. I -- I want to back up. I most likely
23 scanned the document and e-mailed it to her so
24 that she could read the statement. And then

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1 usually -- I don't know if this is what happened
2 then, if I called her and spoke with her
3 immediately or perhaps the day after, but at some
4 point I spoke with her and was given direction to
5 get statements -- a statement from Mr. Rhoton,
6 and then get Miss Onley involved for conversation
7 and statement.

8 Q. Okay. So who -- who directed you to
9 get a statement from Mr. Rhoton and Miss Onley?

10 A. Miss Foreman.

11 Q. Did she direct you also to speak with
12 Miss McGrory?

13 A. I did speak with Miss McGrory after I
14 read the statement.

15 Q. Okay. And what do you recall Miss
16 McGrory telling you about the alleged incident?

17 A. The incident that happened that day.
18 They were in the meat department, in the prep
19 area. She was doing dishes and Miss Onley was
20 preparing shrimp I think in the steamer, or
21 seafood in some -- some way. And they were
22 talking about Antifa and the rioting and Proud
23 Boys, and Miss Onley was refusing to understand
24 that the Antifa was behind the rioting, Miss

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KARL MICHENER

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1 McGrory was refusing to understand that these
2 Proud Boys were behind the rioting, and at some
3 point Miss McGrory got upset and stormed out.
4 She was yelling to Miss Onley to be quiet, or
5 shut up, maybe, I think she wrote. And she left
6 the back of the meat department. She told me
7 that Miss Onley followed her. She went out the
8 back of the store and again Miss Onley followed
9 her, and took some time to cool off. She came
10 back inside. Mr. Schlegel asked her what was
11 going on. She told him. Asked for a statement.

12 And that's in general the -- what
13 happened that day, as far as Miss McGrory is
14 concerned and me learning about the incident.

15 Q. Okay. So I want to try to narrow the
16 timing if I can. I know we're talking, you know,
17 almost two years past now.

18 A. Yeah.

19 Q. But it's my understanding, and I'll
20 represent to you, that the date of what you just
21 described between Miss Onley and Miss McGrory was
22 October 1, 2020. Does that sound accurate to
23 you?

24 A. I'm not -- I'm not sure.

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KARL MICHENER

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1 Q. But sometime late September or early
2 October; does that accurate?

3 A. Yes.

4 Q. Okay. So what I want to know is the
5 day this occurred, to your knowledge, between
6 Miss Onley and Miss McGrory, is that the same day
7 that you heard about it from Mr. Schlegel and
8 read the statement?

9 A. It was either the day of -- I heard of
10 the incident the day of. I'm not sure if the
11 statement was from the day of -- the day of or
12 the day after I read it.

13 Q. Okay. And when you had the
14 opportunity to speak with Miss McGrory about what
15 happened, was that the same day you read her
16 statement?

17 A. I believe so.

18 Q. Okay. And do you recall in that
19 conversation with Miss McGrory ever her and Miss
20 Onley speaking about 50 Shades of Gray, a prank
21 against Mr. Rhoton, a dildo, or anything else
22 sexual in nature?

23 A. Could you repeat that?

24 Q. Yeah. What I'm trying to ask is, when

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1 Miss McGrory described to you what happened
2 between her and Miss Onley where they had that
3 argument and Miss McGrory had to leave and then
4 wrote a statement, did she ever tell you that
5 anything sexual in nature was discussed during
6 that argument?

7 A. No.

8 Q. Okay. So where did the 50 Shades of
9 Gray comment she made, the prank on Mr. Rhoton
10 with the use of a dildo, where did that come
11 from?

12 A. Her statement.

13 Q. Okay. And that's from a time prior to
14 the argument she had with Mr.[sic] Onley about
15 Antifa or the Proud Boys or anything else?

16 A. Yes.

17 Q. Okay.

18 A. I believe so.

19 Q. Did you only speak with Miss McGrory
20 one time about what she wrote in the statement?

21 A. No.

22 Q. You spoke with her multiple times
23 about it?

24 A. After speaking with Miss Onley, I had

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KARL MICHENER

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1 to go back to Miss McGrory, as Miss Onley had
2 made some statements about the situation as well.
3 So I wanted to investigate what Miss Onley had
4 mentioned as well.

5 Q. Okay. So starting off with Miss
6 Onley, you speak with Miss McGrory first after
7 reading the statement --

8 A. Yes.

9 Q. -- you go to Miss -- you go to Miss
10 Onley, what does she tell you?

11 A. So -- okay. So I brought her into the
12 room and mentioned that there was a complaint
13 from Sandy about that day. So we started talking
14 about the politics first, I believe. I asked her
15 what happened. She described a similar situation
16 where they were talking about Antifa and the
17 Proud Boys. She was watching CNN and they had
18 mentioned that Antifa was fake, but the Proud
19 Boys were a real organization causing part of the
20 rioting.

21 I asked her if it was common for
22 them to discuss politics, which she said it was.
23 I asked if she felt like it was friendly, if it
24 was unwanted, if she was a willing participant.

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1 She said that she was. I asked if she thought
2 they were friends. And she said, I thought we
3 were. I said, okay. So she mentioned that they
4 had texted back and forth. She showed me some of
5 the texts, very cursory glances. I couldn't
6 speak to what the content was. But there was no
7 aggression or there wasn't any unwanted
8 conversations as far as politics goes.

9 And I said, okay, the other part of
10 this complaint is about talking about 50 Shades
11 of Gray. And she said, yeah, you know, we were
12 talking about it and Sandy said it was her
13 favorite movie. And I said, did you talk about
14 using it. And she said, well, you know, I'm --
15 I'm alone, I don't have my husband anymore,
16 and -- it wasn't an easy conversation when it got
17 to that part, to be honest with you. I -- it
18 was -- we had a good working relationship, I felt
19 like, and it was a little bit awkward. So we
20 talked about it as easily as we could, but she
21 did say that she was talking about it. And I
22 asked her about the incident with pranking Shaun,
23 Mr. Rhoton, with using the dildo. And she said,
24 yeah. I was like, you know, that's -- Sandy

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1 talked you out of that. She's like, yes, she
2 said it wasn't a good idea. And I go, she was
3 right, it wasn't going to be a good idea. And
4 she's kind -- you know, I know that, I shouldn't
5 have done that, I shouldn't have...

6 And I tried to get more information
7 out of her about the -- talking about the dildo,
8 because she had mentioned that they had spoken --
9 I'm sorry, I shouldn't say they -- Miss McGrory
10 and her had spoken about it previously. And I
11 said, well, when did that happen. And she said,
12 when we were on break out in front of the store.
13 We have steps that employees sometimes sit on.
14 And I said, was anybody else around for that.
15 And she said, yes. And I said, who. And she
16 said, I don't want anybody else to get in trouble
17 for this. I said, listen, I need to know what
18 happened so I can -- you know, a proper
19 investigation. I need to determine what was
20 going on. She said, I don't want anybody else to
21 get in trouble. So she wouldn't tell me who was
22 involved in that conversation apart from her and
23 Miss McGrory. And so I said, okay, so my
24 direction has been to get your statement. I'd

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1 like to get this written down if we could. And
2 she was like, we just talked for an hour, you
3 want me to write that down. And I said, yes, I'd
4 like you to write a statement about this. And
5 she said, I'm not doing that. So I couldn't make
6 her write the statement, unfortunately.

7 My direction from Miss Foreman was
8 to send her home after I spoke with her, so I did
9 that. I sent her home and I said this would
10 be -- all this information I would give to human
11 resources. I'm going to go talk to Sandy about
12 what you said about, you know, the interaction
13 you've already had concerning some of this and
14 I'll be in touch. I believe that was on a Friday
15 or a Saturday. That same week.

16 Q. Okay. So I want to break that apart
17 just a little bit.

18 A. Sure. There was a lot.

19 Q. You mentioned -- and I need to be
20 specific for the transcript -- the prank with the
21 dildo regarding Mr. Rhoton. Am I correct Miss
22 Onley made a joke that she would place a dildo in
23 his coat pocket; is that right?

24 A. Correct. Meat coat pocket, not his

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1 personal coat.

2 Q. Okay. Like a big white meat jacket
3 that they wear when they're in the meat
4 department?

5 A. Yes, to protect themselves from blood
6 and other bits.

7 Q. Okay. And to your knowledge, though,
8 she never went through with this prank, correct?

9 A. Correct.

10 Q. And did you ever have a chance to
11 speak with Mr. Rhoton where he confirmed he was
12 never pranked?

13 A. Yes.

14 Q. Okay. All right. And the
15 conversation when you were getting information
16 from Miss Onley, when she describes speaking to
17 Miss McGrory about doing this prank, did she tell
18 you when that conversation took place?

19 A. Not that I can recall.

20 Q. Did she inform you that that same
21 conversation had occurred the same day that her
22 and Miss McGrory had talked about politics?

23 A. I was under the understanding that
24 politics was a regular conversation they had, so

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1 I don't -- she didn't designate the frequency
2 that she talked about politics along with the
3 dildo and the prank. Is that what you're asking?

4 Q. Well, let me ask you this.

5 Did you ever come to learn that the
6 conversation regarding pranking Mr. Rhoton and
7 talking about 50 Shades of Gray and a dildo, had
8 happened around September 5, 2020, almost a month
9 prior to their argument about politics?

10 A. We didn't discuss a timeline on when
11 that was happening. I don't know if they were
12 congruent, if they happened at the same time. I
13 don't know that.

14 Q. Okay. So from your conversations
15 after reading the statement with Miss McGrory
16 first and then Miss Onley as you just described,
17 after those two conversations, you did not know
18 when approximately the discussions occurred about
19 pranking Mr. Rhoton and talking about a dildo had
20 happened?

21 A. I believe Miss McGrory had dates in
22 her statement. September 5th sounds like a date
23 that was in that statement.

24 Q. Okay.

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1 A. But I don't know that the discussion
2 about the prank -- I don't believe the discussion
3 about the prank and the discussion about 50
4 Shades of Gray happened the same day. I don't
5 know that.

6 Q. Understood. Okay. All right. And do
7 you recall ever hearing about 50 Shades of Gray
8 and a prank with a dildo from Miss Onley, Miss
9 McGrory, or anyone else in the meat department
10 while you worked at Audubon prior to this late
11 September, early October incident after you read
12 Miss McGrory's statement?

13 A. No.

14 Q. Okay. All right. So now going back
15 to after you speak with Miss Onley, you said you
16 went and spoke with Miss McGrory for a second
17 time, correct, as part of your investigation?

18 A. Correct.

19 Q. All right. When you spoke with her,
20 what do you remember in that discussion?

21 A. I indicated that Miss Onley said that
22 this was a discussion that they were having
23 together. She denied that. I said, so she was
24 just talking about this and you wanted nothing to

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1 do with it, you hadn't spoken about it before,
2 you hadn't suggested that she purchase something
3 before, or anything along those lines. And she
4 said, no, I don't talk about that stuff.

5 Q. Before you go on, when you say that
6 stuff, are we referring to politics or are we
7 referring to 50 Shades of Gray and a dildo?

8 A. I would believe she was talking about
9 sex or sex life with Miss Onley.

10 Q. Okay. Did she say anything else
11 during this discussion?

12 A. I don't believe so. That was the --
13 that was what I needed to determine, because that
14 was what Miss Onley was indicating. So that is
15 what I was trying to determine, whether that was
16 true or not.

17 Q. Okay. After you read Miss McGrory's
18 statement and you spoke to her two times, did you
19 ever discuss if there was anything else she
20 wanted to add to her statement?

21 A. No.

22 Q. Is it fair to assume, though, that as
23 part of your investigation, that you went through
24 that statement with Miss McGrory to find out more

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1 information about what she wrote about?

2 A. We discussed it, of course.

3 Q. Okay. So after your second
4 conversation with Miss McGrory, is it at that
5 time you then contact Miss Foreman and she gives
6 you directions to send Miss Onley home?

7 A. I sent Miss Onley home after speaking
8 with her. Went back to -- that was the direction
9 I got from -- the complaint was about Miss Onley,
10 so that was the direction I got, to send her home
11 because she was the -- that was who the complaint
12 was about. Spoke with Miss McGrory to follow up,
13 and then spoke with Miss Foreman again with
14 the -- what I found out about her -- Miss Onley's
15 side of the story.

16 Q. Okay. So just again for my
17 chronological understanding, did Miss Foreman
18 direct you to send Miss Onley home prior to you
19 questioning Miss Onley and you say you spoke to
20 her for about an hour?

21 A. Yes.

22 Q. Okay. So regardless of what Miss
23 Onley was going to say to, let's -- per se defend
24 herself, she was going to get sent home because

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1 the complaint was against her; is that right?

2 A. Because of the nature of the complaint
3 I would assume, but I don't know what Miss
4 Foreman's thinking was as to why to do that. I
5 was just following the direction.

6 Q. Right. And then later in the day
7 after doing your investigation, speaking to Miss
8 Onley, speaking to Miss McGrory on two occasions,
9 you relay all that information to Miss Foreman;
10 is that right?

11 A. Yes.

12 Q. Okay. Was it during that conversation
13 Miss Foreman informed you Miss Onley would be
14 terminated?

15 A. No.

16 Q. What was said during that conversation
17 other than you just relaying what you had learned
18 in your investigation?

19 A. That she would get back to me with a
20 determination.

21 Q. Okay. And how long from that
22 conversation was it until she got back to you;
23 the next day, two days, to the best of your
24 knowledge?

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1 A. That was the weekend, so I don't
2 believe I heard from her until Monday or Tuesday.

3 Q. Okay.

4 A. Of the following week.

5 Q. And how did she contact you Monday or
6 Tuesday the following week?

7 A. I believe I reached out to her.

8 Q. Did you call her?

9 A. Yes.

10 Q. Why did you call her?

11 A. Why?

12 Q. Yes.

13 A. To get a determination on what we were
14 doing with Miss Onley.

15 Q. Okay. And when you told her -- when
16 you called her, did you ever make a
17 recommendation at any point about issuing her a
18 form of discipline rather than a termination?

19 A. No.

20 Q. Did Miss Foreman ever discuss with you
21 considering any other form of discipline rather
22 than an immediate termination?

23 A. No.

24 Q. Why did you never bring that up?

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1 A. What do you mean?

2 Q. Well, you said it was part of your
3 practice, you don't want to terminate employees,
4 you want to issue discipline, you know, you don't
5 want a lot of turnover at your location. So in
6 this incident, why did you not bring up and
7 discuss with Miss Foreman, you know, maybe we can
8 issue her a suspension, a written warning, a
9 verbal counseling, rather than an immediate
10 termination?

11 A. The nature of the violation. I mean,
12 sexual harassment is unacceptable in the
13 workplace. Unacceptable means unacceptable. You
14 can't have that conversation with employees,
15 other employees.

16 Q. So you believed it was a terminable
17 offense, what Miss Onley did?

18 A. Based off of our policy, yes.

19 Q. Okay. Did Miss McGrory ever tell you
20 that she felt harassed?

21 MR. ELLIOTT: Object to the form.

22 You can answer.

23 THE WITNESS: Could you repeat
24 that?

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1 BY MR. OLCESE:

2 Q. Yeah. So when Miss McGrory spoke to
3 you on those two occasions as part of your
4 investigation, did she ever tell you that she
5 felt harassed by Miss Onley?

6 MR. ELLIOTT: Same objection. You
7 can answer.

8 THE WITNESS: No.

9 BY MR. OLCESE:

10 Q. Okay. Are you aware if Miss McGrory
11 had ever complained about Miss Onley prior to
12 making that written statement that we just
13 discussed?

14 A. Yes.

15 Q. Okay. How many times to your
16 knowledge, prior to the written statement, has
17 Miss McGrory complained about Miss Onley?

18 A. I mean, an official complaint as
19 opposed to, like, just complaining about a fellow
20 employee or...

21 Q. Well, you tell me. What's an official
22 complaint?

23 A. Miss McGrory mentioned to myself that
24 Miss Onley was trying to group them together in a

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1 complaint about their treatment in the workplace,
2 and Miss McGrory wanted to state to us that she
3 didn't feel part of that complaint, the -- and it
4 was only Miss Onley's complaint, she never voiced
5 it to me or my department manager that I know of.

6 Q. Okay. So when you say that Miss
7 McGrory came to you about Miss Onley trying to
8 group her into her complaint, what was your
9 understanding that Miss Onley was complaining
10 about?

11 A. Her treatment in the meat department
12 as a woman, I think.

13 Q. Okay. Was it your understanding that
14 she was also complaining of race discrimination?

15 A. No, not at that time.

16 Q. It was about gender discrimination,
17 correct?

18 A. I believe so, yes.

19 Q. And Miss McGrory was, am I correct,
20 informing you that she did not feel that she was
21 being discriminated based on her gender?

22 A. Correct.

23 Q. When did Miss McGrory have this
24 conversation with you that she did not feel she

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1 was being discriminated?

2 A. The summer of 2021 I would say -- or
3 2020.

4 Q. If I said August of 2020, does that
5 sound more accurate to you?

6 A. Yeah, perhaps.

7 Q. Okay. And this was just a verbal
8 complaint, so to speak, from Miss McGrory to you?

9 A. Correct.

10 Q. Okay. Nothing was written down?

11 A. No.

12 Q. And when you say an official
13 complaint, in your -- to your understanding, does
14 that mean when it's written down?

15 A. No. When I say that, I meant Miss
16 Onley never approached me and said, I have a
17 problem that I need to discuss with you, that
18 things are going wrong, I feel a certain way
19 about something. This was an employee telling me
20 that another person is complaining and I don't
21 feel that I'm part of it. So when I say
22 official, Miss Onley never approached me and told
23 me that something was wrong.

24 Q. Understood. Do you remember any other

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1 occasion other than what you just described, Miss
2 McGrory coming to you and complaining about Miss
3 Onley in some form or fashion?

4 A. No, I don't believe so.

5 Q. Okay. You don't recall any time Miss
6 McGrory said anything about Miss Onley's lack of
7 performance?

8 A. No.

9 Q. Or any other occasion where she
10 complained that Miss Onley was harassing her in
11 some form or fashion?

12 A. No.

13 Q. And is it your understanding and
14 belief that if she had made those complaints to
15 someone else, let's say Mr. Schlegel or
16 Mr. Mercon, that as part of your practice of
17 being the store director, you would be made aware
18 of that?

19 A. I would hope so, yes.

20 Q. Do you recall any time Mr. Mercon or
21 Mr. Schlegel ever approaching you prior to
22 September 2020 and saying, Mr. Michener, hey,
23 Miss Onley is harassing her coworkers?

24 A. No.

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1 Q. Okay. You mentioned also about, when
2 we talked about Miss Onley's complaint, that at
3 that time she was complaining of gender
4 discrimination, when I had asked you about if she
5 was complaining of race discrimination. So my
6 question for you is, has Miss Onley ever
7 complained of race discrimination working for
8 Redner's?

9 MR. ELLIOTT: Objection to form.

10 THE WITNESS: Not to me.

11 BY MR. OLCESSE:

12 Q. Did you ever learn that she complained
13 of race discrimination to anyone at the Audubon
14 location?

15 A. No.

16 Q. Okay. Did you ever learn she
17 complained of race discrimination working at the
18 Lansdale location?

19 A. Previous to the information I've been
20 given before this questioning?

21 Q. Well, let me ask you this then. Maybe
22 it'll clear it up.

23 Prior to litigation, did you ever
24 learn Miss Onley complained of race

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1 discrimination to anyone at Redner's?

2 A. No.

3 Q. Okay.

4 A. No, I learned about Lansdale from the
5 complaint that was filed.

6 Q. Okay. Did Miss McGrory receive any
7 form of discipline for her actions during the
8 argument we described between her and Miss Onley
9 where they were talking about politics and Antifa
10 and such?

11 A. No.

12 Q. And why not?

13 A. The situation didn't call for
14 discipline.

15 Q. Did you ever consider, based on what
16 she described happened, issuing her discipline?

17 A. Who is she?

18 Q. Miss McGrory. Sorry. Miss McGrory.

19 A. No.

20 Q. So just to clarify, you never had
21 conversation with Miss Foreman about whether or
22 not Miss McGrory should be issued any form of
23 discipline?

24 A. So, in the investigation when I heard

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1 about it, I mean, I'm sure I thought about what I
2 would have to do depending on how the
3 investigation came out.

4 Q. But my question was specifically about
5 your communications with Miss Foreman. When you
6 and Miss Foreman were speaking about your
7 investigation and what to do with Miss Onley as a
8 result of it, was it ever brought up whether or
9 not Miss McGrory would be subject to any form of
10 discipline?

11 A. Yes, I think we discussed discipline
12 depending on how Miss Onley defended herself
13 against the allegations and whether or not we
14 would have to address it with Miss McGrory. I
15 believe so, yes.

16 Q. Okay. The meat department at Audubon,
17 the whole department, and I have an understanding
18 from Miss McGrory of the layout, but that's
19 visible and within an earshot of the public,
20 correct?

21 MR. ELLIOTT: Object to the form.
22 You can answer.

23 THE WITNESS: Physically it's
24 within earshot, but it's very loud in the

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1 prep area.

2 BY MR. OLCESE:

3 Q. Okay. So it's my understanding that
4 the heated exchange occurred in front of a sink
5 where Miss McGrory was doing the dishes; is that
6 correct to your understanding?

7 A. Yes.

8 Q. And is that sink within visible view
9 of the public?

10 A. There are things obstructing it, but
11 yes, I would say so. There are meat tables and
12 supplies and everything as well in the
13 department.

14 Q. Right. And to your understanding, if
15 you're standing where the public is at the meat
16 department, can they hear any exchange going on
17 at the sink area?

18 A. I can't speak for whether or not
19 people can hear.

20 Q. Okay. Just do your belief. If there
21 are two individuals in a heated exchange,
22 shouting at each other as described in Miss
23 McGrory's statement, would the public be able to
24 hear that, to your knowledge?

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1 MR. ELLIOTT: Object to the form.

2 THE WITNESS: Maybe.

3 BY MR. OLCESE:

4 Q. You don't know, though?

5 A. It's very loud in that room, so it's
6 hard to hear even a conversation -- if they're at
7 the front and I'm trying to speak with them, it's
8 hard to hear because of the evaporators that are
9 in there make a lot of noise. Every -- you know,
10 I don't -- how loud is the argument, and how much
11 is the person paying attention. We have
12 intercoms that go off, music playing all the
13 time. I'm not sure if a person would be able to
14 hear it or not at any given time.

15 Q. Did you ever come to learn that during
16 that exchange Miss McGrory used expletives at
17 Miss Onley, cursed at her?

18 MR. ELLIOTT: Object to the form.

19 THE WITNESS: From what I recall
20 her saying, was she told her to shut up.

21 BY MR. OLCESE:

22 Q. So you don't recall any point in time
23 learning, prior to litigation, Miss McGrory
24 telling you that she yelled at Miss Onley, stay

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1 the fuck away from me?

2 A. I don't recall being told that she
3 said that.

4 Q. Okay. And if an employee said
5 something in that fashion or similar, and the
6 public can hear it, a customer can hear someone
7 use the word fuck, is that a discipline -- is
8 that something an employee can be disciplined
9 for?

10 MR. ELLIOTT: Object to the form.
11 You can answer it.

12 THE WITNESS: Could be.

13 BY MR. OLCESE:

14 Q. Not all the time though?

15 A. They could always be disciplined for
16 it. That doesn't mean necessarily that they
17 would be.

18 Q. Okay. And at any point prior to
19 litigation, did you ever come to learn that
20 during that exchange, Miss McGrory threw a pot?

21 A. I believe Miss Onley described it as
22 such, yes.

23 Q. Did Miss McGrory ever tell you in her
24 written statement to your knowledge, or the two

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1 conversations you had with her during the
2 investigation, that she threw a pot?

3 A. I think she described putting the
4 stuff down that she was cleaning in the sink like
5 this (indicating). We have three-bay sinks,
6 right, and she was cleaning in the sink. I think
7 she said she might have thrown the pots down. Do
8 you mean that or do you mean like hurling it
9 across the room?

10 Q. I mean throwing the pots; that she
11 said, in her own words, she threw pots?

12 A. I think she threw them down, like fed
13 up with the situation, I'm going to throw this
14 down and exit, get away from it.

15 Q. Okay. And you recall that there was
16 an unemployment hearing on behalf of Miss Onley,
17 correct?

18 A. Yes.

19 Q. And you participated in that hearing,
20 right?

21 A. Yes.

22 Q. And do you remember Miss McGrory
23 saying then that she threw pots?

24 A. I don't recall as such, but it's

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1 possible.

2 Q. Does Redner's have a policy against
3 violence and intimidation?

4 A. Yes.

5 Q. Did you ever consider that Miss
6 McGrory throwing a pot was an act of violence or
7 intimidation?

8 A. No.

9 Q. You never discussed that with her?

10 A. No.

11 Q. Did you ever discuss throwing the pot
12 with any of the conversations you had with Miss
13 Foreman during your investigation?

14 A. No.

15 Q. Has -- to your knowledge, has Miss
16 McGrory ever complained about any other coworker
17 other than Miss Onley?

18 A. Yes.

19 Q. Who else has she complained about?

20 A. She complains about a cashier on the
21 front end whose hair was dyed.

22 Q. Do you know that cashier's name?

23 A. Sorry. Give me a second. Sorry, I
24 can't pull it out right now.

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1 Q. If I told you the name Rachida, does
2 that sound accurate?

3 A. Yes, Rachida Tou. It's -- it ends
4 with a T-O-U I believe on the end of it. It's
5 her full name.

6 Q. Okay. And what was your understanding
7 of the complaint from Miss McGrory about
8 Rachida's hair?

9 A. We have a dress code policy which does
10 include hair and different colors. I believe the
11 policy states natural color hair. And Rachida
12 had dyed her hair. I'm colorblind so I'm not
13 exactly sure what the color was, but it was a
14 lighter color and Miss McGrory felt that it was
15 against the policy. Rachida had told me that. I
16 said, listen, it's not her job, it's not her
17 responsibility to deal with that, I think your
18 hair is fine, you're okay. So if you're okay,
19 then I will have a conversation with her and we
20 won't hear any more about it.

21 So that's what I did. I went to --
22 told Sandy that this isn't your scope of
23 responsibility, don't worry about other people's
24 hair or dress code or anything else. That's for

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1 the management team to deal with, not you.

2 Q. So did Rachida have to change her hair
3 color?

4 A. No, not at all.

5 Q. And you had a conversation with Miss
6 McGrory and you told her that that's not her
7 concern, correct?

8 A. Not her scope of responsibility, yes.

9 Q. Okay. Do you recall anyone else Miss
10 McGrory has ever complained about other than Miss
11 Onley and Rachida?

12 A. No, I don't believe so.

13 Q. Okay. And Rachida, what race or
14 ethnicity is she?

15 A. African-American.

16 Q. To your knowledge, has Miss McGrory
17 ever been issued any form of discipline?

18 A. Perhaps attendance.

19 Q. Okay. I'm going to show you the next
20 exhibit, Mr. Michener. It's going to be Miss
21 McGrory's written statement that we've talked
22 about. I just want to present it to you. We're
23 going to take a look, I have a few more
24 questions. Okay, so bear with me.

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1 MR. ELLIOTT: While you get that
2 up, can we take a short five or 10-minute
3 break for a restroom break?

4 MR. OLCESE: Yeah, that's fine if
5 it's okay with everyone else.

6 (Discussion held off the Record.)

7 (Brief recess.)

8 BY MR. OLCESE:

9 Q. All right, Mr. Michener. We just took
10 a quick five to 10-minute break. During that
11 break did you have any substantive talks with
12 your counsel about your deposition?

13 A. He just said I'm doing good and if I
14 need a break, to tell you.

15 Q. Very good. Not a problem. All right.
16 So I want to show you Miss McGrory's statement
17 that we've talked about previously, so bear with
18 me while I pop that on the screen.

19 A. Yes, sir.

20 (Document being shown.)

21 BY MR. OLCESE:

22 Q. Okay. Mr. Michener, I'm sharing my
23 screen with an exhibit marked D-5. It is a
24 four-page exhibit Bates stamped KS317

KARL MICHENER

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1 consecutively until KS320. Okay? Let me know if
2 you want me to zoom in or scroll up or down. I
3 understand you might have a physical copy with
4 you.

5 A. Yes.

6 Q. But take a look at the first page and
7 let me know if you recognize this document.

8 A. Yes, I do.

9 Q. All right. Do you understand this to
10 be the statement Miss McGrory submitted after the
11 incident we described between her and Miss Onley?

12 A. Yes.

13 Q. Okay. And on the top right it's dated
14 October 1, 2020. Does that refresh your
15 recollection as to the date this incident
16 occurred?

17 A. Yes.

18 Q. And I'll represent to you October 1,
19 2020 is a Thursday. Does that sound accurate to
20 you?

21 A. Yes.

22 Q. All right. Very good. And then on
23 the last page of D-5 there's a signature. Do you
24 understand that signature to be Miss McGrory's?

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1 A. Yes.

2 Q. Okay. And this is the statement we
3 talked about earlier that you read that was
4 sitting on your desk; is that right?

5 A. Yes.

6 Q. Okay. So I just want to go through it
7 together. And the first thing Miss McGrory
8 writes about in the top paragraph was an issue
9 approximately two to three months ago where her
10 name was brought up by Miss Onley about being
11 discriminated against based on her gender. Do
12 you see that?

13 A. Yes.

14 Q. So she writes two to three months ago,
15 so that would be July, August of 2020. And that
16 sounds accurate to you?

17 A. Yes.

18 Q. Do you remember having any more
19 conversations with Miss McGrory about her not
20 feeling discriminated against, or conversations
21 about Miss Onley feeling she was discriminated
22 against based on her gender, other than what she
23 references here?

24 A. No.

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1 Q. Okay. Do you have any understanding
2 why Miss McGrory is writing about not feeling she
3 is discriminated against based on her gender on
4 October 1, 2020 in her statement when it
5 happened, as she says, two to three months ago?

6 A. I don't know why she would feel that
7 way.

8 Q. Did you ever speak with Mr. Schlegel,
9 who provided any information, as to why Miss
10 McGrory provided this information in her
11 statement?

12 A. No.

13 Q. Okay. She writes in the second
14 paragraph: Things have not calmed down and I am
15 constantly on guard with Connie, as I have been.

16 And we talked about this prior.
17 Other than the complaint she made on October 1,
18 2020 with the statement we're reading right now,
19 you don't recall any other time that Miss McGrory
20 said she felt on guard around Connie, do you?

21 A. I don't recall.

22 Q. Okay. And then on the second page,
23 KS318, it's the first time Miss McGrory brings up
24 sexual explicit toys and comments that happened

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KARL MICHENER

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1 approximately on September 5th.

2 Do you see that?

3 A. Yes.

4 Q. And did you ever come to learn or have
5 any understanding why Miss McGrory included this
6 commentary from September 5th in her October 1,
7 2020 statement?

8 A. During the unemployment hearing, I
9 believe she mentioned that she felt uncomfortable
10 talking about that with management, if I remember
11 correctly.

12 Q. Okay. But in this statement it's
13 your -- so I guess at unemployment she said she
14 was uncomfortable. Is that your understanding
15 why, I guess, Miss McGrory wrote about it almost
16 a month later?

17 A. Yes.

18 Q. Okay. And like we talked about prior,
19 she never brought this to your attention before
20 this written statement that we're looking at
21 right now in D-5?

22 A. Correct.

23 Q. And then on the bottom of the third
24 page and continuing to the fourth page of D-5 is

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KARL MICHENER

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1 where she first starts talking about what had
2 happened that day on October 1st, right?

3 A. Looks like that, yes.

4 Q. So, the date of the statement, she
5 only dedicates about one page of it to what
6 actually happened that day, that precipitated the
7 statement, right?

8 A. Yes.

9 Q. All right. What I'd like you to do,
10 and let me know if you want me to scroll down if
11 you're looking at the digital copy versus on your
12 person, if you can read the statement from where
13 it states on the bottom of the third page with
14 October 1, 2020, to the end of the statement, and
15 let me know when you're finished, please.

16 A. October 1, 2020.

17 MR. ELLIOTT: Did you mean aloud?

18 BY MR. OLCESSE:

19 Q. No, no, just to yourself.

20 A. I'm sorry.

21 Q. Not a problem. Just to yourself. Let
22 me know when you're finished.

23 A. (Reviewing document). I'm finished.

24 Q. Okay. I asked you previously about

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KARL MICHENER

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1 whether you were aware if Miss McGrory ever said
2 she used an expletive against Miss Onley during
3 this incident. And in the middle of the last
4 page you can see she writes: I don't fucking
5 care, stop it.

6 Do you see that?

7 A. Yes, I do.

8 Q. Okay. And do you see anywhere in the
9 section I asked you to read, Miss McGrory admits
10 that she threw a pot during this incident?

11 A. I didn't see anything about a pot.

12 Q. Okay. Did you ever come to learn any
13 reason why Miss McGrory did not include that she
14 threw a pot in her statement?

15 A. No.

16 Q. Okay. Does Redner's have a policy
17 about making good-faith, truthful complaints?

18 MR. ELLIOTT: Object to the form.

19 You can answer.

20 THE WITNESS: Yes.

21 BY MR. OLCES:

22 Q. And do you believe that Miss McGrory
23 leaving out that she threw a pot was making a
24 good-faith, honest complaint here?

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1 A. I don't know if she threw a pot. I
2 wasn't there. I didn't see any incident. I'm
3 not sure how I should judge on whether this
4 statement is accurate if I wasn't there to see
5 her throw a pot.

6 Q. Okay. So you were not present for the
7 incident on October 1st that Miss McGrory is
8 describing with Miss Onley, correct?

9 A. Correct.

10 Q. Okay. And you did not see her throw a
11 pot. Are you stating here today that you don't
12 know or never learned that Miss McGrory admitted
13 to throwing a pot?

14 A. I can't say for sure. I don't know.

15 Q. Okay. Let me pull up another exhibit.
16 Hold on one second.

17 (Document being shown.)

18 BY MR. OLCESE:

19 Q. All right, Mr. Michener. I'm showing
20 you an exhibit marked D-4. This is a transcript
21 of the unemployment hearing that you participated
22 in regarding Miss Onley. Have you ever seen the
23 front page of this document?

24 A. Yes.

KARL MICHENER

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1 Q. Okay. And there's a transcript based
2 on what was said during that hearing. Have you
3 ever seen this transcript that I'm scrolling
4 through slowly?

5 A. Yes, sir.

6 Q. Okay. This transcript is 36 pages.
7 It's Bates stamped KS227 all the way to KS262.
8 Okay? And I want to just direct your attention
9 to one specific spot during Miss McGrory's
10 testimony. So bear with me, okay?

11 A. Yes, sir.

12 MR. ELLIOTT: He can read through
13 it in the meantime, though, all right? Is
14 that all right, Andrew? Or do you want to
15 just focus him on one line?

16 MR. OLCSE: Just one line if I
17 can.

18 BY MR. OLCSE:

19 Q. But certainly, Mr. Michener, after
20 seeing it, if you want to read more for context
21 and you think you need, be my guest. Okay? But
22 bear with me. I don't want to go through the
23 whole thing if we don't need to. All right?

24 A. Yes, sir.

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1 (Document being shown.)

2 BY MR. OLCESE:

3 Q. All right. So I'm on Bates stamp
4 KS237. I will have it here and it's going to be
5 in this section, but feel free to look at the
6 hard copy if you have it in front of you as well.
7 All right. So I'll represent to you that EW2
8 means Employer Witness 2 and that's Miss McGrory.
9 Okay? EL means the employer lawyer that's asking
10 Miss McGrory questions during this hearing.
11 Okay?

12 Do you remember the attorney asking
13 Miss McGrory questions during the hearing?

14 A. Yes, sir.

15 Q. All right. So, on this section, the
16 employer lawyer asks: All right. Now, how did
17 you end up -- did you end up discussing with
18 store management Connie Onley's talking about
19 using sex toys at work?

20 Miss McGrory says: There was an
21 event that took place in the meat department.

22 Okay? And then after that, in the
23 big testimony block from Miss McGrory, okay, if
24 you go about midway down, and I'm just going to

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1 read this: And then, I think it was actually a
2 few days later, after I talked to Dave, I was
3 doing dishes -- I'm a huge Trump supporter -- and
4 Connie had walked up and she was going on in
5 regard to us Trump supporters are the ones that
6 are causing the riots out west and down south.
7 And I told her, I don't want to talk about this,
8 and I asked her to be quiet. I had asked her to
9 shut up, and she wouldn't; and I ended up picking
10 up the pot and throwing it into the filthy water
11 and I told -- and told her, just shut up.

12 Did I read that section accurately?

13 A. Yes.

14 Q. Does that refresh your recollection
15 learning that Miss McGrory threw a pot during
16 this exchange with Miss Onley?

17 MR. ELLIOTT: Object to the form.

18 THE WITNESS: She said she threw a
19 pot.

20 BY MR. OLCESSE:

21 Q. Okay. So let's go back now to the
22 previous exhibit, D-5.

23 (Document being shown.)

24 BY MR. OLCESSE:

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1 Q. So, Mr. Michener I just put up D-5
2 again and I'm only on the last page, KS320. And
3 I asked you before I showed you the unemployment
4 transcript about whether Miss McGrory, in your
5 opinion, was being truthful when she admitted
6 throwing the pot. And you said you couldn't
7 remember because you weren't there, if she threw
8 a pot. Well, we just saw that she testified that
9 she threw a pot.

10 So seeing that now, would you agree
11 with me that Miss McGrory was not honest
12 completely in her statement?

13 MR. ELLIOTT: Object to the form.

14 THE WITNESS: Because of omission,
15 you're saying that she's not honest? Is
16 that your...

17 BY MR. OLCESSE:

18 Q. That's what I'm asking you.

19 A. I don't -- I don't have an opinion on
20 whether that's honest or not. She threw a pot in
21 the water. Like I said, it's a three-bay sink.
22 Throwing a pot against a wall or at Miss Onley is
23 bad. Throwing a pot into the water is put --
24 throwing the pot into the water at the sink.

KARL MICHENER

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1 Q. So am I correct, when Miss McGrory is
2 writing down a statement of everything that
3 happened to lead to her complaint, you find it
4 acceptable that she admitted she threw a pot into
5 the sink?

6 MR. ELLIOTT: Object to the form.

7 THE WITNESS: Could you repeat that
8 one more time? I'm sorry.

9 BY MR. OLCESE:

10 Q. I'm asking if in this statement, Miss
11 McGrory's writing everything to completely
12 describe what had happened on October 1, 2020,
13 that you find it acceptable that she admitted
14 throwing a pot in the sink?

15 A. If she didn't put it in this
16 statement.

17 Q. Are you asking me?

18 A. I'm -- you're asking me if I think
19 it's okay that she admitted to throwing a pot in
20 the statement but it's not in this statement?

21 Q. I'm asking you if you find it
22 acceptable that Miss Onley[sic] omitted and did
23 not fully write down that she threw a pot in this
24 statement?

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1 A. I don't know. I don't know how to
2 answer that.

3 Q. Okay. Do you know if you had learned
4 that Miss McGrory had threw a pot during this
5 exchange with Miss Onley on October 1, 2020,
6 whether that would have led you to issue her
7 discipline or whether that would have affected
8 the decision to terminate Miss Onley?

9 MR. ELLIOTT: Object to the form.

10 THE WITNESS: If I learned that a
11 pot was thrown at Miss Onley, yes, there
12 would be disciplinary action because
13 that's not acceptable in the workplace.

14 BY MR. OLCESSE:

15 Q. And I am admitting, and we know, there
16 was not a pot thrown at Miss Onley, like to her
17 person, it was thrown by Miss McGrory, in her own
18 words, in anger in the sink. And I'm asking, if
19 you knew that and it was part of this statement,
20 would that have changed your decision to not
21 issue Miss McGrory discipline?

22 MR. ELLIOTT: Object to the form.

23 THE WITNESS: Yes.

24 BY MR. OLCESSE:

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1 Q. Okay. Would that have changed the
2 decision to terminate Miss Onley?

3 A. I don't know. I didn't choose to
4 terminate Miss Onley.

5 Q. Okay. Do you remember ever discussing
6 with Miss Foreman, before the decision was
7 reached to terminate Miss Onley, anything about
8 Miss McGrory throwing a pot?

9 A. No.

10 Q. So we established that October 1, 2020
11 was a Thursday. What day, to the best of your
12 knowledge now knowing that, is when you spoke
13 personally with Miss Onley during your
14 investigation?

15 A. I believe Miss Onley had left on
16 Thursday already, so I couldn't speak with her
17 that day.

18 Q. Okay.

19 A. I don't recall if it was Friday or
20 Saturday.

21 Q. Okay.

22 A. It was the next available time where I
23 was at work and she was at work at the same time.

24 Q. And do you recall Miss Onley ever

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1 returning to work after you sent her home that
2 day?

3 A. She did not.

4 Q. Okay. How did Miss Onley learn of her
5 termination?

6 A. I called her.

7 Q. Okay. Was anyone else on the call
8 other than you?

9 A. No, sir.

10 Q. All right. So it was just between you
11 and Miss Onley, and what did you say to her?

12 A. I told her that we wouldn't be
13 bringing her back. She violated our harassment
14 policy, sexual harassment policy.

15 Q. Do you remember if she said anything
16 in response?

17 A. She said, well, that's the way the
18 world is. And she thanked me.

19 Q. Was it -- sounds like a fairly brief
20 conversation then?

21 A. It was brief, yes.

22 Q. Less than five minutes in your
23 estimation?

24 A. I believe so.

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1 Q. Do you remember also during that call
2 when you had to inform her that she was
3 terminated that, you know, you apologized that
4 she was being terminated?

5 A. I don't recall. I may have.

6 Q. Why would you apologize to her about
7 being -- notifying her of her termination?

8 A. If I did, giving somebody bad news.

9 Q. Did you agree that Miss Onley deserved
10 to be terminated?

11 A. Yes.

12 Q. Did you ever draft a termination
13 notice for Miss Onley?

14 A. No.

15 Q. Let me just take a look at that.

16 (Document being shown.)

17 BY MR. OLCSE:

18 Q. All right, Mr. Michener. I'm showing
19 you a document marked D-8. It is a one-page
20 exhibit Bates stamped KS316. Let me zoom in a
21 little bit. Just at the top here, and I can
22 scroll down, do you recognize this document?

23 A. I do.

24 Q. Okay. Is this the termination notice

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1 that you had drafted for Miss Onley?

2 A. It's the termination notice for the
3 company records. Miss Onley wasn't presented
4 this.

5 Q. Was Miss Onley ever presented any
6 paperwork regarding her termination?

7 A. Not that I'm aware of.

8 Q. Okay. And after you had called Miss
9 Onley and notified her over the phone that she
10 was terminated, have you ever had any subsequent
11 conversations with her?

12 A. She called me maybe within a month
13 asking for employment information.

14 Q. Asking for like a reference?

15 A. No, asking for hire date, termination
16 date, that sort of thing. We use employment --
17 an employment verification company. I gave her
18 that information.

19 Q. Understood. Okay.

20 A. She thanked me for it.

21 Q. The date on this employee warning
22 record, D-8, is October 7, 2020. Is that the day
23 you drafted this?

24 A. Yes.

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1 Q. Okay. And I'll represent it's also --
2 it looks like there's an electronic signature
3 that same day. That's from you, correct?

4 A. Yes, sir.

5 Q. Do you know if the date you drafted
6 this document was before, on the same day, or
7 after you called Miss Onley to inform her she was
8 terminated?

9 A. I believe it was after.

10 Q. Okay. And in the section regarding
11 company remarks, again, you didn't reference
12 anything about a prior first warning, second
13 warning, third warning, right?

14 A. Correct.

15 Q. Okay. This document was never
16 provided to Miss Onley?

17 A. I don't know that for sure.

18 Q. Okay. All right. Okay. Let me show
19 you one last exhibit.

20 (Document being shown.)

21 BY MR. OLCSE:

22 Q. All right, Mr. Michener. I'm showing
23 you another exhibit marked D-7. It's a one-page
24 exhibit Bates stamped KS315. I'm going to zoom

KARL MICHENER

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1 in a little bit. Feel free to take your time if
2 you'd like to read it, or if you want me to
3 scroll up or down if you don't have a physical
4 copy in front of you. But do you recognize this
5 document?

6 A. Yes.

7 Q. What is this document?

8 A. I was asked to --

9 MR. ELLIOTT: Hold on. Can you
10 scroll all the way to the bottom of it? I
11 haven't gotten a copy in front of him yet,
12 and I don't want him to identify the
13 document half paged as it appears on the
14 screen.

15 BY MR. OLCESSE:

16 Q. Mr. Michener, let me know when you
17 feel comfortable that you've seen the entire
18 document.

19 A. (Reviewing document).

20 MR. ELLIOTT: I got him a hard
21 copy. Sorry for the delay, Andrew.

22 MR. OLCESSE: Not a problem at all.

23 THE WITNESS: This is a statement I
24 was asked to provide for the unemployment

KARL MICHENER

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1 hearing. Wait. I'm not sure if it's for
2 the unemployment or if it's for this
3 hearing, but it's a statement that I was
4 requested, that Miss Foreman asked me to
5 write a statement concerning the
6 termination of Miss Onley.

7 BY MR. OLCESE:

8 Q. Okay. And it's dated at the top
9 January --

10 MR. ELLIOTT: I'm sorry for the
11 interruption, but the record is not going
12 to be clear on that statement. Let me
13 just -- let me just apologize first.

14 The client just said this hearing,
15 referring to either this litigation or
16 this deposition procedure. It was
17 prepared for neither, so I don't want that
18 to be hanging out there.

19 MR. OLCESE: Well, let me just ask
20 Mr. Michener his understanding. Okay?

21 BY MR. OLCESE:

22 Q. So, Mr. Michener, it's dated January
23 17, 2021. Do you see that?

24 A. Yes.

KARL MICHENER

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1 Q. And that was a few months after Miss
2 Onley's termination, right?

3 A. Correct.

4 Q. Do you remember being made aware of
5 Miss Onley's lawsuit or complaint as of January
6 17, 2021?

7 A. I believe paperwork was sent to my
8 store.

9 Q. Okay. And Miss Foreman asked you to
10 write this, correct?

11 A. Correct.

12 Q. Did you type this document?

13 A. Yes.

14 Q. Okay. You write in the statement that
15 Miss Onley's termination was twofold, one
16 being -- talking about pranking Mr. Rhoton which
17 we described earlier. Do you see that?

18 A. Yes.

19 Q. Well, you know, you testified that Mr.
20 Rhoton was never actually pranked, Miss Onley
21 never did what she joked about with Miss McGrory,
22 so are you saying now that that was part of the
23 decision to terminate Miss Onley?

24 A. Sorry, repeat that?

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1 Q. Was the discussion between Miss Onley
2 and Miss McGrory where they talked about joking
3 to Mr. Rhoton about putting a dildo in his work
4 coat pocket, was that part of the reason Miss
5 Onley was terminated?

6 A. I didn't make the decision to
7 terminate. You would have to ask Miss Foreman if
8 that was part of her decision to terminate Miss
9 Onley.

10 Q. Well, you write here that her
11 termination was twofold. And then you describe
12 that one of it was joking about putting a dildo
13 in Mr. Rhoton's coat pocket.

14 A. That is the investigation that I made.
15 I wrote up what my investigation said.

16 Q. So you're not saying that part of her
17 termination was because of that attempted or
18 joked-about prank?

19 A. What I'm saying is in regards to her
20 termination, this is the issue that I discovered.

21 Q. So what do you --

22 A. As part of my investigation --

23 Q. Go ahead. I'm sorry. Go ahead.

24 A. As part of my investigation, this is

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1 what I found. That's what I wrote there. I did
2 not make the decision to terminate Connie.

3 Q. Well, you write, regarding Connie's
4 termination --

5 A. Correct.

6 Q. -- it was twofold, right?

7 A. Yeah.

8 Q. So what are the two aspects of
9 Connie's termination?

10 A. The complaint about the use of a sex
11 toy while watching 50 Shades of Gray was one of
12 the issues that I discovered, while in the
13 presence of Shaun. And also bringing the --
14 suggestion of bringing the sex toy to work and
15 placing it in Shaun's jacket as a practical joke.

16 Q. So as of the time you wrote this
17 statement, I'm -- am I correct you believed that
18 was part of the reason that Miss Onley was
19 terminated?

20 A. Yeah, for sexual harassment.

21 Q. But the two issues you just described?

22 A. Are considered sexual harassment.

23 Q. Okay. So Miss Onley -- okay.

24 Understood. Okay, Mr. Michener. I appreciate

KARL MICHENER

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1 your time. I don't have any further questions
2 unless your counsel has some.

3 MR. ELLIOTT: I have no questions.
4 Thanks, everybody.

5 The processing of the transcript is
6 just fine as to Ms. McGrory's. We'll just
7 do that the same way.

8 COURT REPORTER: In other words,
9 Counsel, you're ordering a copy of the
10 transcript, correct?

11 MR. ELLIOTT: Correct, in the same
12 way and the same format that I previously
13 did with Ms. McGrory.

14 - - -

15 (Witness excused.)

16 (Deposition concluded at approximately
17 1:11 p.m.)

18

19

20

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23

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1 C E R T I F I C A T I O N

2

3 I hereby certify that the
4 proceedings, evidence, and objections noted
5 herein are contained fully and accurately in the
6 stenographic notes taken by me upon the foregoing
7 matter, and that this is a correct transcript of
8 the same.

9

10

11

12

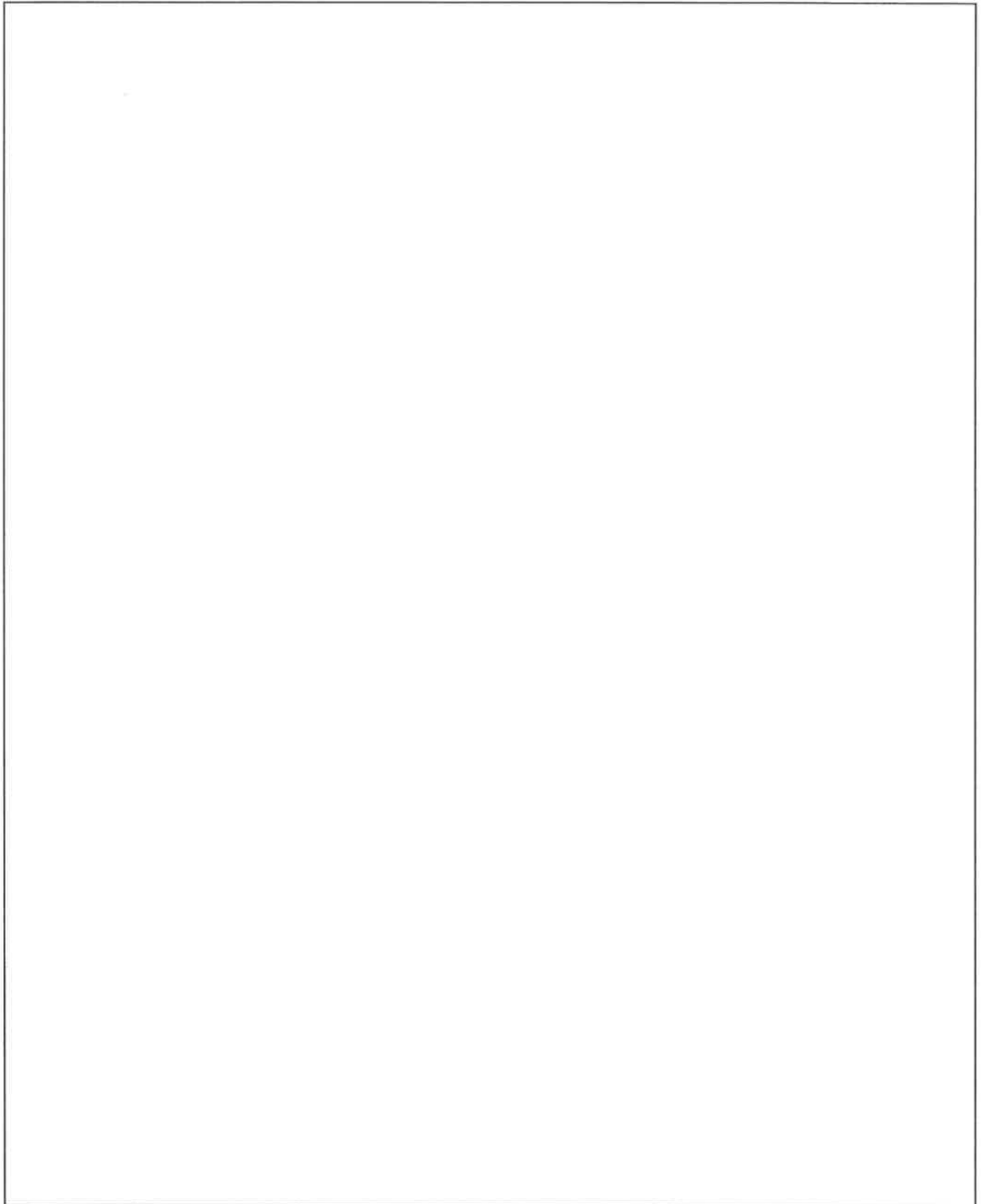
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R&K Reporting Inc.

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KARL MICHENER

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KS - MSJ 000953

EXHIBITS

KARL MICHENER

Date: June 27, 2022

Connie Onley v. Redner's Markets, Inc.

No.: USDC EDPA 21-4785

R&K Reporting Inc.
37390 Harmony Drive
Selbyville, Delaware 19975
Phone: 215-946-7009
Email: scheduling@rkcourtreporting.com



Redners Meat Department Listing

Store Opened August 2019

2 year prior to term date - 10-05-2020

Employee Name	Hire Date	Job Title	Ethnicity	Gender	Pay Rate	FT/PT	Termination Date
67							
MEAT							
HALEY, THOMAS P.	08/07/2019	Clerk	White	Male	\$13.00	P	09/24/2019
NARVAEZ Jr., HERMAN	10/28/2019	Clerk	Hispanic or Latino	Male	\$12.00	P	11/14/2019
MOSTELLER, DAVID R.	09/04/2019	Meat Clean-Up	White	Male	\$14.00	P	09/27/2021
RHOTON, SHAUN R.	08/26/2011	Meat Cutter	White	Male	\$18.50	F	
MERCON Jr., MARCOS P.	07/02/2018	Meat Manager	White	Male	\$26.92	F	
MCGRORY, SANDRA	10/21/2019	Meat Wrapper	White	Female	\$14.50	F	
ONLEY, CONNIE L.	10/15/2017	Meat Wrapper	Black or African American	Female	\$14.75	F	10/05/2020

6 months prior to term date - 10-05-2020

Employee Name	Hire Date	Job Title	Ethnicity	Gender	Pay Rate	FT/PT	Termination Date
67							
MEAT							
HALEY, THOMAS P.	08/07/2019	Clerk	White	Male	\$13.00	P	09/24/2019
NARVAEZ Jr., HERMAN	10/28/2019	Clerk	Hispanic or Latino	Male	\$12.00	P	11/14/2019
MOSTELLER, DAVID R.	09/04/2019	Meat Clean-Up	White	Male	\$14.00	P	09/27/2021
RHOTON, SHAUN R.	08/26/2011	Meat Cutter	White	Male	\$18.50	F	
MERCON Jr., MARCOS P.	07/02/2018	Meat Manager	White	Male	\$26.92	F	
MCGRORY, SANDRA	10/21/2019	Meat Wrapper	White	Female	\$14.50	F	
ONLEY, CONNIE L.	10/15/2017	Meat Wrapper	Black or African American	Female	\$14.75	F	10/05/2020

12 months previous to term date - 10-05-2020

Employee Name	Hire Date	Job Title	Ethnicity	Gender	Pay Rate	FT/PT	Termination Date
67							
MEAT							
HANSON, JON G.	09/22/2022	Clerk	White	Male	\$15.50	F	

KS - 000696

KS - MSJ 000955



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TRANSCRIPT OF TESTIMONY

R&K Reporting, Inc.

6/27/22

Onley v Redner's Mkets, Inc.

D-4

CLAIMANT:

CONNIE I ONLEY
700 LOWER STATE RD 23-B7
NORTH WALES PA 19454

SS NUMBER:

095-50-2580

APPEAL NUMBER:

21-09-I-2331

DATE OF HEARING:

7/12/2021 (TELEPHONE)

PLACE OF HEARING:

KING OF PRUSSIA PA

HEARING BEFORE:

R REFEREE TIFFANY MCMASTER

APPEARANCES:

Claimant

C. Connie I. Onley

Claimant's Attorney

CL Allison Barker

Employer's Attorney

EL Jason Hopp

Employer Witnesses

EW1 Karl Michener

EW2 Sandra McGrory

EW3 Shaun Rhoton

*Auxiliary aids and services are available on request to individuals with disabilities.
Equal Opportunity Employer/Program*

BD-67 REV 1-16

KS - 000227

KS - MSJ 000956

CONNIE I. ONLEY

21-09-I-2331

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July 12, 2021

R We are on record in Appeal Number 21-09-I-2331. The Claimant is Connie Onley. The Employer is Redner's Tiger Markets, Inc. The parties are scheduled to participate in the hearing today by telephone. The Referee is going to begin by contacting the Claimant at Area Code 267, 475-8297. The Referee is, then, going to contact Claimant's counsel, Allison Barker, at Area Code 215, 639-0801. I am, then, going to contact the Employer counsel, Jason Hopp, at Area Code 484, 248-5820, and then the Employer witnesses at (215) 527-2392. It is 11:35 a.m.

REC Please leave your message for Connie Onley.

R Ms. Onley, this is Appeals Referee McMaster. It is Monday, July 12, 2021. I was calling you about the unemployment hearing we had rescheduled for this morning. I'm going to call your counsel at this time, and I will, depending on what is discussed with her, be making an attempt to contact you back for the hearing. Thank you.

UM Hello, Karpf Karpf & Cerutti, Michel [phonetic] speaking.

R Yes, may I speak with Allison Barker, please?

UM Yes, you can. May I ask who's calling?

R Yes, this is Appeals Referee McMaster. I was calling about an unemployment hearing we have today.

UM Okay. All right. I'll see if she's available, all right?

R Yes, thank you.

CL Good morning, this is Allison Barker.

R Good morning, Ms. Barker. I attempted to call your client and got a voicemail.

CL Okay. She was having an issue earlier. I know that I tried -- first tried to call her and got her voicemail, and then called her again. She wasn't receiving all calls. I can try to call her and conference her in.

R Well, no, I just wasn't sure if there was an additional issue involved in that. So, why don't you let me try to make an attempt to call her myself first?

CL Okay.

R And then, if we continue to run into an issue, well, we'll have to figure that out from there. So, bear with me, let me try to call the Claimant again.

CL Okay, thank you.

KS - 000228

KS - MSJ 000957

CONNIE I. ONLEY

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R And I just -- there's no change to your client's number, to your knowledge, correct?

CL Correct.

R Okay. Ms. Onley, are you on the line? Ms. Barker, are you still there?

CL Yes.

R All right. My system is showing that the Claimant answered the phone. Ms. Onley, are you there? All right, I'm disconnecting. I will try one more time.

CL Okay. I'm sorry about this.

C Hello?

R Ms. Onley?

C Yes, ma'am. I'm sorry. For some reason, your first call didn't come through to me. I don't know why.

R Are you still there, Ms. Onley?

C Yes, I'm here.

R Okay, because you got cut off there for a moment. All right. Ms. Barker...

C There's something...

R ...I...

C ...going on with my phone, so you might lose me. I don't know what's going on here.

R Okay. Well, Ms. Onley, I have to advise you that your Hearing Notice told you it was your responsibility to ensure that you could participate in the hearing today. So, if you need to make...

C Yes, ma'am.

R ...other arrangements to use a different phone number or something like that, you need to let me know that now, because that's not going to be something that we're going to continue to address during the hearing.

C Okay. Well, I don't have any other number, so I'm going to have to go with what I have. But thank you.

R All right. I am next going to contact the Employer's counsel. I'm going to advise you both that during the process of my contacting the rest of the individuals for the hearing, you get disconnected, please hang up and I will call you back as soon as I realize you are no longer on the line.

C Thank you.

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CONNIE I. ONLEY

21-09-I-2331

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R All right.

CL Thank you.

EL Hello, this is Jason Hopp.

R Mr. Hopp, this is Appeals Referee McMaster calling about the hearing for Connie Onley. Are you ready to proceed?

EL I'm sorry, I caught you halfway through your sentence. This is Jason Hopp at Redner's Markets.

R Yes, this is Referee McMaster calling about the unemployment hearing for Connie Onley.

EL Yes.

R You ready to proceed, sir?

EL Yes.

R Okay. I have the Claimant and her counsel on the line. I am now contacting the Employer witnesses. While I am doing that, again, if any party gets disconnected from the call, please hang up and I will call you back.

EW1 Hello?

R Yes, is this Mr. Rhoton?

EW1 This is Mr. Michener.

R Oh, Mr. Michener. I'm sorry. Mr. Hopp?

EL Yes?

R You said Mr. -- Ms. McGrory and Ms. Rhoton were going to participate today. You also have Mr. Michener?

EL Well, he's the Store Manager. I'm assuming he's scheduled to work today. Mr. Michener, is Ms. McGrory and Mr. Rhoton there?

EW1 Yes.

R Okay. All right. I'm sorry about that. I was asking for Mr. Rhoton based on the e-mail that I received. I apologize. Okay. All right. So, it appears as though I now have everyone on the line. I'm going to do a roll call just to make sure I'm not missing anyone. Ms. Onley, are you still on the line?

C Excuse me?

R Ms. Onley, are you still on the line?

C Yes, ma'am.

R Ms. Barker, are you still on the line?

CL Yes.

KS - 000230

KS - MSJ 000959

CONNIE I. ONLEY

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R Mr. Hopp?

EL Jason Hopp is here, yes.

R Okay. And Mr. Michener and Ms. McGrory and Ms. Rhoton?

EW2 Yes.

R All right.

EW3 Yes, ma'am.

R All right.. Now, there are a few things that I need to remind you of again before we start the hearing for today. The first is that I am digitally recording today's hearing. That will become the official record of today's hearing. I turned on my recording before I began contacting any of the parties. I have been on record this whole time. During the hearing today, if you have difficulty hearing me or one another for any reason at any time, please let me know. Finally, if you should get disconnected from the call today, please hang up and I will call that party back as soon as I realize that party is no longer on the line. Ms. Onley, do you have any questions about that information before we get started today?

C No, ma'am.

R Ms. Barker, questions from you about that information before we get started today?

CL No.

R Mr. Hopp, questions from you about that information before we get started today?

EL No.

R Mr. Michener, on behalf of the Employer witnesses, any questions about that information before we get started today?

EW1 No questions.

R All right. I will begin today's hearing, then, at this time with some opening statements. We are back on record in Appeal Number 21-09-I-2331. The Claimant is Connie Onley. The Employer is Redner's Tiger Markets, Incorporated. The hearing is taking place on Monday, July 12, 2021. The time is now 11:45 a.m. The hearing was scheduled to begin at 11:30 a.m. I am Appeals Referee Tiffany McMaster. I have been assigned by the Unemployment Compensation Board of Review to conduct today's hearing, take testimony and evidence on the issues under appeal, and issue a Written Decision to the parties. Today's hearing is being digitally recorded. The digital recording will become the official

KS - 000231

KS - MSJ 000960

CONNIE I. ONLEY

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record of the proceeding. The Claimant is participating in today's hearing by telephone. For the record, ma'am, would you please state and spell your first and last name?

C Are you asking me?

R Ms. Onley, you're the Claimant.

C Okay. First name, Connie, C-O-N-N-I-E; last name, Onley, O-N-L-E-Y.

R Ms. Onley, has there been any change to your mailing address since the last hearing?

C No, ma'am.

R Thank you. Ms. Onley, you are represented by counsel, correct?

C Yes, ma'am.

R Counsel, for the record, would you please state and spell your first and last name?

CL Allison, A-L-L-I-S-O-N; Barker, B as in Boy, A-R-K-E-R.

R Ms. Barker, any change to your mailing address since the last hearing?

CL No.

R Thank you. The Employer is participating in today's hearing by telephone. I'd like to begin with the Employer's counsel. For the record, sir, please state and spell your first and last name.

EL Jason Hopp, J-A-S-O-N, H-O-P-P.

R And Mr. Hopp, if memory serves me correctly, you indicated at the first hearing in this matter that your mailing address was 3 Quarry Road, Reading, PA 19605. Is that correct?

EL Yes.

R Thank you. I would like each of the Employer witnesses, one at a time, to please state and spell your first and last name for the record. I would like to begin with Mr. Michener, then Ms. McGrory, then Mr. Rhoton.

EW1 Karl Michener, K-A-R-L, M-I-C-H-E-N-E-R.

EW2 Sandra McGrory, S-A-N-D-R-A, M-C-G-R-O-R-Y.

EW3 Shaun Rhoton, S-H-A-U-N, R-H-O-T-O-N.

R Thank you. Mr. -- on behalf of the Employer, Mr. Hopp, did the Employer receive its Notice of Hearing for today?

EL Yes.

KS - 000232

KS - MSJ 000961

CONNIE I. ONLEY

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R Ms. Barker, on behalf of the Claimant, did the Claimant receive Notice of Hearing for today?

CL Yes.

R Ms. -- oh, I'm sorry. Ms. Barker and Mr. Hopp, since both parties are represented in the hearing today, are the parties aware of their rights? Ms. Barker?

CL Yes.

R Mr. Hopp?

EL Yes.

R Do you waive recitation of the rights at this time, Ms. Barker?

CL Yes.

R Mr. Hopp?

EL Yes.

R Thank you. All testimony in today's proceeding must be under oath or affirmation. Because the parties are testifying by telephone, there is a second oath I need to administer to you. At this time, Ms. Onley, Mr. Michener, Ms. McGrory, and Mr. Rhoton, would you all please raise your right hands? And please keep them raised until I advise you to lower them.

PARTIES DULY SWORN

TELEPHONIC OATH

R You may lower your hands. Let the record reflect the parties have been duly sworn. Now, today's proceeding is a continuation of a prior hearing. Where we left off was at the conclusion of Mr. Michener's testimony. So, the purpose of today's hearing is to take testimony from Ms. McGrory and Mr. Rhoton; after which -- I will begin by having a few questions potentially for those witnesses. Mr. Hopp will be permitted to question the Employer's witnesses. And then, Ms. Barker, you have the right to cross-examine the Employer witnesses. After the Employer's testimony has been completed, we will turn to the Claimant. I will begin by asking the Claimant a few background questions regarding the separation from employment. I will, then, have -- Ms. Barker, you will be permitted to question your client. Mr. Hopp, you will, then, have the opportunity to cross-examine the Claimant if you have any questions for the Claimant. Each party will, then, be given one opportunity to offer rebuttal or additional testimony or evidence. This would be

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CONNIE I. ONLEY

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testimony or evidence that was not previously provided. I will, then, close the record and the parties will get a Written Decision in the mail. Ms. Barker, any questions about the hearing procedure we're going to follow today?

CL

No.

R

Mr. Hopp, questions from the Employer about the hearing procedure we're going to follow for today?

EL

No.

R

Thank you. Before we get started with the testimony, there are a few additional documents I need to enter into the record. These are documents that were created related to what happened after the prior hearing. I'm going to begin with Referee Exhibit 5. That as a Notice of Continuance which was mailed on May 28, 2021. That was issued after the hearing was concluded on May 26 and needed to be rescheduled. Referee Exhibit 6 is e-mail correspondence between the Employer and the Referee's Office with dates they were not available for the rescheduling. Referee Exhibit 7 is a Notice of Hearing mailed on May 28, 2021 for a hearing that was scheduled on June 14, 2021; however, I will note that due to an internal error, Ms. Barker was not listed as an additional party on that Hearing Notice, did not receive notice of the hearing, and the hearing was rescheduled accordingly. Referee Exhibit 8 was an e-mail from the Employer counsel, dated June 7, 2021, providing contact information for the prior hearing. Referee Exhibit 9 is an e-mail from the Referee's Office to Ms. Barker, with dates that they would be unavailable for the relisting of this hearing. Referee Exhibit 10 is an e-mail from the Employer to the Referee's Office, listing dates the parties are unavailable for the relisting of this hearing. Referee Exhibit 11 is a document titled E-Mail Log Detail View. This appears to show the Hearing Notice was received or acknowledged or seen on June 21, 2021. I'm not exactly sure what that document is. Referee Exhibit 12 is the Notice of Hearing for today's proceeding, which includes the actual Hearing Notice, as well as the Telephone Regulations and a multi-language notice. Finally, Referee Exhibit 13 is e-mail correspondence from Mr. Hopp to the Referee's Office, with the telephone number for himself and the Employer witnesses for today's proceeding. Ms. Barker, any objections to Referee Exhibit 5 through 13 being entered into the record?

CL

No.

R

Mr. Hopp, objections to Referee Exhibits 5 through 13 being entered into the record?

KS - 000234

KS - MSJ 000963

CONNIE I. ONLEY

21-09-I-2391

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EL No.

R Referee Exhibits 5 through 13 are entered into the record without objection. All right. Mr. Hopp, why don't you begin with -- who is the Employer's next witness, Mr. Hopp? Who do you plan on calling, Mr. Rhoton or Ms. McGrory?

EL Ms. McGrory.

R Okay. Bear with me one second, please? All right. Mr. Hopp, why don't you begin questioning your witness at this time?

EL Thank you. Ms. McGrory, where do you work?

EW2 Redner's Fresh Market.

EL At what location?

EW2 Audubon, Pennsylvania.

EL And what is your position at Redner's?

EW2 I'm a Meat Wrapper.

EL Okay. How long have you worked at that position at Redner's?

R Okay, Mr. Hopp, I'm going to stop you. Let's move it along to the actual reason for why we're here, please? Do you have any questions for her about why the Claimant was discharged?

EL Yes. Are you...

R Go ahead.

EL Are you at a position of supervision or management at Redner's?

EW2 No.

EL All right. Let me direct your attention back to September 5th. What happened that day involving Connie Onley?

EW2 September 5th? Connie was stating to me that she would like to put her dildo into Shaun's coat pocket to get him back for some of the things that he -- I don't know why she wanted to do it, honestly.

EL I just want -- to make things easier, Ms. McGrory, I just want you to tell us what Connie Onley said in your presence, that's all. So, back in the meat room in September, what did she tell you?

EW2 That she wants to put a dildo into Shaun's coat pocket. And then, I advised her that that's not a good idea.

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KS - MSJ 000964

CONNIE I. ONLEY

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EL Did she mention the use of a sex toy other than that one time to you?

EW2 There was times -- there was one time when I was making talk that she made a comment in regards to that. And then, there was one time, I was in the process of getting ready to wrap meat, she had came out and said that she knows how to clean it; and I didn't know what she was talking about, and I'm like what are you talking about, and then she stated her dildo.

EL All right.. Did she ever make mention to you in the workplace of -- well, first of all, did all of these discussions happen during the workplace while you were working?

EW2 Oh, yes. Yes.

EL All right. And did she ever mention a movie to you in the context of the sex toy, the dildo?

EW2 Yes, Fifty Shades of Grey, and I made...

EL What did she say?

EW2 Let me...

EL Just based on your recollection, that's all I'm asking.

EW2 That she would -- she made the comment to me about Fifty Shades of Grey, and I let her know that that was one of my favorite movies because I like the one actor in it. And there was a time when she told me that she did watch the movie and it got her really worked up, and she pulled her dildo out and used it.

EL All right. And how did you respond to what she said then?

EW2 I don't really care, it's not what I want to hear.

EL I'm sorry. Okay. You verbally said that to her? I'm asking.

EW2 Yes.

EL Okay. And then, how did she respond?

EW2 I really don't remember. I think she just proceeded...

EL Okay:

EW2 ...to go on.

EL All right. Now, you mentioned earlier in your testimony that Connie Onley wanted to put the dildo in Shaun Rhoton's coat pocket. Could you just go into more detail so I'd fully understand what happened there?

KS - 000236

KS - MSJ 000965

CONNIE I. ONLEY

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EW2 So, she wanted to put -- she physically set it up to where she felt like she needed to get him back. And...

EL For what? Did she say for what? To get back for what?
 EW2 Just teasing, being normal co-workers in the department, pranks and stuff. And I explained to her that I don't think that that's a good idea. And then, it caught me off guard, but I think it was a day or two later, I had said something to Shaun and just to give him a heads-up, if that does happen, that he knows where it came from. And, apparently, Connie had said that she was going to do it to him, told Shaun that; and then, I guess, at that point, Shaun took it up to the front office.

EL All right. Now, how did you end up -- did you end up discussing with store management Connie Onley's talking about using sex toys at work?

EW2 There was an event that took place in the Meat Department...

EL When was that approximately?

EW2 October...

EL If you recall.

EW2 August of 2020 I guess it was. I went in and I talked to Karl in regards to the situation that Connie had brought up to me that she feels that her and I are being discriminated against. And I didn't feel that way at all, so it kind of caught me off guard. And I had went in and I spoke to Karl in regards about that, and I told him that I didn't want anything to do with that if that's where she's leading. So, I don't exactly know what transpired, but our other manager, Dave Kemp [phonetic], came in, and I was talking to Dave Kemp in regards to some things that were going on and letting him know that I wasn't comfortable in that kind of conversation, and I don't want my name in it because that's not how I feel at all. And then, I think it was actually a few days later, after I talked to Dave, I was doing dishes -- I'm a huge Trump supporter -- and Connie had walked up and she was going on in regard to us Trump supporters are the ones that are causing the riots out west and down south. And I told her, I don't want to talk about this, and I asked her to be quiet. I had asked her to shut up, and she wouldn't; and I ended up picking up the pot and throwing it into the filthy water and told her, just shut up. And I screamed at her and I walked out; and when I walked out, she proceeded to follow me. And I turned to her and I told her to stop following me. And then, I ended up walking out the receiving door, and then she ended up following me outside; and I was screaming at her, go back inside, leave me alone,

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I don't want to talk about this. And then, I did stay out there and cooled down. Connie went back in, and then I came in about 10 minutes later. And I was met at the back door by an old Assistant Store Director, Jim; and Jim asked if everything was okay, and I told him no. And then, he goes, do you want to write an incident report up? And I said yes. And then, when we got into the office, I'm like, do you want to know everything? And then, that's when I just started writing.

EL Okay. So, that's when you told store management for the first time about Connie Onley's discussion in the workplace of the use of sex toy?

EW2 Correct. I don't talk about that stuff to people I don't feel comfortable with.

EL All right. Did you ever...

EW2 And it's just...

EL ...acknowledge...

EW2 ...something...

EL ...to your...

EW2 ...that I did not know how to address -- what was that?

EL I'm sorry. Finish, please? Finish what you were saying.

EW2 It's something that I verbally wouldn't know how to address. I was better off writing it on paper, but it's not like I was worried about writing it on paper because I didn't think it was actually going to happen. But, then, after everything transpired is when I'm like this has to be addressed.

EL All right. So, can you approximate, approximately, from the time that Connie Onley was discussing in the meat room her use of sex toys and the possible planting of a sex toy in Shaun Rhoton's coat pocket, from the time you reported it, how much time went by approximately?

EW2 It was about a month, a month and a half maybe.

EL All right.

EW2 But there were other incidences that happened in-between that that I never went to management before for, either,

EL Can you elaborate on that, please?

EW2 There was times where she was talking about pole dancing, and she actually did a pole dance in the meat room, and I remember our meat -- my meat manager turning and looking up and telling her, don't ever do that again. And...

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C Never happened.

R I'm sorry. Ms. Onley, I believe that may have been a comment made by you, where you said that that never happened. Is that right?

C Yes, ma'am.

R Ms. Onley, it's not your opportunity to speak. Please don't interrupt. Go ahead, Mr. Hopp.

EL One moment, please? I have nothing further of this witness.

R Okay. Ms. Barker, do you have questions for Ms. McGrory?

CL Yes, thank you. Ms. McGrory, to your knowledge, did Ms. Onley ever place a dildo or a sex toy in anyone's pocket at Redner's?

EW2 No.

CL Okay. And it wasn't until Ms. Onley, and you had a discussion about Trump and the riots that you reported anything that Ms. Onley had said in your presence, is that correct?

EW2 Correct, because I don't feel comfortable going to upper management and talking about stuff like that.

CL And there was -- you did ultimately write a statement, correct?

EW2 Correct.

CL And you complained in that statement that you felt Ms. Onley played the race card. That was part of your complaint, correct?

EW2 Yes.

CL Okay. And did you ever -- did you get any discipline for screaming and throwing a pot at Redner's?

EL Objection...

EW2 No.

R Hold on.

EL Objection.

R Hold on. Okay. Mr. Hopp, what is your objection?

EL It's completely irrelevant. The standard here is to determine whether or not there's a basis under Unemployment Law of whether the Claimant is eligible for benefits.

R Okay. Ms. Barker, Mr. Hopp is raising the relevance of your question. Do you have a response to his objection?

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CL Yes, it would be -- it would go to show that there's different treatment between one individual and another for misconduct within the workplace.

EL Well, they're complete -- I mean, let's just assume for the sake of argument that that's accurate. They're 180-degree different issues, a pot and a -- and water being thrown down versus an employee discussing the use of a dildo in the workplace.

R Okay. All right. Mr. Kopp, your objection is noted. I'm going to overrule it for the completeness of the record. I'm going to allow the witness to answer the question; however, whether or not it is considered in rendering my Decision will be another story, you know. I'll evaluate that as need be in my Decision, if necessary. So, the objection is noted but overruled. Ms. McGrory, can you answer Ms. Barker's question? And if you need it repeated, please let her know that.

EW2 Can you repeat it?

CL Sure. Were you ever disciplined for what you said, when you threw the pot and when you screamed?

EW2 No.

CL Okay. Did you ever...

EW2 I...

CL Oh, go ahead. Sorry.

EW2 I would like to back up to when I first started at Redner's, but I would just like to voice my concern here.

R Ms...

EW2 When I first...

R Ms...

EW2 ...started at...

R Now, Ms...

EW2 ...Redner's...

R Whoa, whoa, whoa. Ms. McGrory...

EW2 I'm just...

R Excuse me.

EW2 Yes?

R Thank you. Everybody stop speaking. Ms. McGrory, right now, we're on cross-examination, which means that you need

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to limit what you're saying to questions that are posed to you from Ms. Barker. So, what you're about...

EW2 Okay.

R ...to say is not in response to a question, so we're not going to -- I'm not going to allow that. So, Ms. Barker, do you have any other questions for Ms. McGrory?

CL Yes. Ms. McGrory, did you ever bring up the idea of a dildo or a sex toy with Ms. Onley?

EW2 No.

CL Did you ever show her on your Amazon account any sex toys that you had purchased?

EW2 No.

CL Okay. Did you ever tell her where she could find a dildo at a local sex shop?

EW2 No.

CL Okay. I don't have anything further, Referee.

R Just bear with me one moment, please? I'm sorry, Ms. Barker, I was in the middle of writing a note. Did you -- the last question you asked Ms. McGrory to which she responded in the negative, your question was did she ever tell the Claimant where she could purchase...

CL A sex toy at a local sex shop.

R Okay. All right. Mr. Hopp, do you have any redirect of Ms. McGrory?

EL No.

R Okay. Mr. Hopp, do you wish to call Mr. Rhoton?

EL Yes.

R Okay, go ahead.

EL All right. Mr. Rhoton...

EW3 Yes?

EL ...what do you do at Redner's?

EW3 I am a Meat Cutter.

EL All right. And is that a managerial or a supervisory position at Redner's?

EW3 No, it is not.

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EL All right. Let's, and you're a Meat, you've been a Meat Cutter at the — at what location?

EW3 The Audubon Redner's Fresh Market, Audubon, Pennsylvania.

EL All right. And, previously, you've worked with Connie Onley?

EW3 Yes.

EL All right. Now, you've heard the testimony discussing Ms. Onley's discussion of sex toys in the workplace. Have you ever personally witnessed her discussing sex toys in the workplace at Redner's?

EW3 Yes, I overheard two conversations.

EL All right. Tell me what you specifically heard Connie Onley say?

EW3 Oh, yeah, sure. So, I was at the cutting table. Sandy was making sausage. Connie was standing next to her. Connie had said that she had just watched the movie Fifty Shades of Grey, and I heard what I thought was that she forgot her toy. So, later on, I had asked Sandy, I'm like, did she really say she forgot her toy? She's like, no, no, no, no, she got her toy. I'm not any naïve. I knew exactly what she was talking about. Then, later in that day, I'm at the auto-wrapper, wrapping some filet mignons that I had cut, and I heard Connie say to Sandy, oh, I cleaned it using hot water and soap. Then, Sandy says, what are you talking about? Connie says, you know what I'm talking about, knowing what she was talking about from the earlier conversation with Sandra. Both times, Sandy was clearly upset and disturbed by the conversation.

EL I have nothing further.

R Bear with me one second, please? Ms. Barker, do you have any questions for Mr. Rhoton?

CL Yes. Mr. Rhoton, did you ever complain about those comments you just testified to to management?

EW3 No. No, I'm not the type of person to do that. I was thinking that this isn't really a hundred percent regarding this case, but her conduct was a little unnerving. There was multiple times where she had screamed at the department manager, and I was actually thinking about going to HR regarding that. But, as far as the sexual content, no, I did not.

CL And whatever you just testified to you also did not report to management, is that correct?

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EW3 Correct.

CL Okay. And to your knowledge, did that conduct you just said regarding screaming, did that play any role in Connie's termination, to your knowledge?

EL Objection...

EW3 No, I don't know...

EL Objection.

EW3 ...that, no.

R Okay.

EL She's asking the witness to guess.

R Okay, hold on.

EL He's not in a...

R Hold on.

EL ...position...

R Timeout, timeout. Timeout, please? Here's what I'm going to need, Mr. Hopp and Ms. Barker in particular: I understand the inclination to want to object as soon as possible prior to the question being finished; however, that causes a problem with me understanding what the question was and what the objection is so that I can properly rule. So, I am going to ask both counsel, please, despite the fact that -- again, I understand your inclination to object as quickly as possible to prevent a particular question or issue being presented; because of the constraints of a phone hearing, I can't allow that. So, Ms. Barker, unfortunately, I did not hear the rest of your question before I believe Mr. Hopp began to object. So, we're going to kind of need to hit the rewind button here. Ms. Barker, can you start over with whatever it was that you were saying, if you recall, prior to Mr. Hopp objecting?

CL Sure. I actually think I might be able to potentially -- I would object to Mr. Rhoton's previous testimony as being irrelevant as it's not part of the reason for Ms. Onley's termination. But that's what I was trying to get out by my next question, which was, do you have any knowledge whether that information played any role in the decision to terminate Ms. Onley?

R Okay. So, Mr. Hopp, then, what were you about to say after Ms. Barker said that?

EL Objection for lack of relevance and foundation. The testimony is he's -- Mr. Rhoton is a Meat Wrapper that is not in a managerial position at Redner's and would have no

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knowledge outside of guessing what the basis of someone's termination is.

R Okay. Both of your objections are overruled. Mr. Rhoton opened the door by making the comment, and I believe that the question that was posed by Ms. Barker is a proper inquiry based on that statement. And, Ms. Barker, his testimony was a fair statement of why he did what -- or did or did not do what he did or did not do based on his prior response. So, both of your objections are noted but overruled. Mr. Rhoton, can you answer Ms. Barker's question?

EW3 Sure. Can you please repeat the question?

CL Sure. To your knowledge, did -- the testimony that you previously supplied regarding Ms. Onley allegedly screaming, did that play any role in her termination?

EW3 That I am not sure. I don't believe so, but I do not know.

CL Okay, thank you. And for the conversations that you testified that you witnessed, were you present the entire time that Ms. Onley and Ms. McGrory were near each other and conversing?

EW3 Just those two times that I had recalled, yes.

CL Okay. But, so, are you -- you wouldn't have been present for any conversation leading up to what you heard or after you left the area, is that correct?

EW3 I'm going to -- I'm confused by your question.

CL Is it fair to say that there were conversations between Ms. Onley and Ms. McGrory that you were not present for?

EW3 Maybe. I...

CL Okay.

EW3 ...don't know. I mean, if I wasn't there, I wouldn't know the conversation.

CL Right. Okay, understood. That's all I have, Referee.

R Mr. Hopp, do you have any redirect of Mr. Rhoton?

EL No.

R Okay. I do apologize. Ms. McGrory, I wrote something down in my notes that I believe was incorrect, so I want to come back to you to ensure that I understood your testimony correctly. The conversation...

EW2 Sure.

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R ...that you said that you had with Ms. Onley about Ms. Onley stating that she wanted to put a dildo in Mr. Rhoton's coat pocket, did you testify to the date in which that conversation took place?

EW2 On approximately September 5th.

R September 5th? Thank you. I had written down October 5th, which is why I was a bit confused. And then, I wanted to make sure that I further understood. Did you recall when you reported that statement to anyone in management?

EW2 October 1st.

R October 1st. And that was, if I understood your testimony, in -- I'm sorry. That was subsequent to this issue that you testified about, where the conversation involving Trump occurred, and you alleged that the Claimant followed you out after you asked her to stop talking about it, et cetera, is that correct?

EW2 Correct, that happened...

R Okay.

EW2 ...October 1st.

R Okay, thank you. I wanted to ensure that I had the timeline on that correct. Thank you. All right. Mr. Hopp, at this time, do you have anything further from the Employer?

EL No.

R Okay. All right. Ms. Barker, I'm going to begin by asking your client a few questions before I turn her testimony over to you. Ms. Onley, were you aware that the Employer had a policy that prohibited offensive remarks, comments, jokes, slurs, verbal conduct pertaining to an individual's race, color, national origin, religion, sex, et cetera?

C No, because this took place on a daily basis.

R That's not what I asked you, ma'am. I asked you, did you know the Employer had a written policy?

C Yes.

R Okay. Did you also know the Employer had a written policy that prohibited offensive sexual remarks, sexual advances or requests for sexual favors?

C Yes.

R Okay. On September 5th of 2020, did you tell Ms. McGrory that you were going to put a dildo in Mr. Rhoton's coat pocket?

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C I don't know if it was September 5th, but I did make an imply to that.

R Okay, ma'am, I don't understand what that means. Did you tell her you were going to put a dildo in Mr. Rhoton's coat pocket?

C No, ma'am, I did not say I was going to do it. I said I was thinking about doing something to get him back, and I mentioned that.

R Okay. Ms. Barker, do you have questions for your client?

CL Yes. Okay. Ms. Onley, the day of your termination, please explain to the Referee what of relevance happened that day, October 1st.

C Okay. That morning, it was the second time in a week that Sandy was a no-call/no-show. She finally showed up a couple of hours after she was supposed to be there. I don't know what happened prior to her walking into the meat room, but I do know our manager was outside of the meat room. I did not see him, but he was outdoor making something, and I'm standing there doing fish. She comes in. As she's coming by, she gives me this look. And I looked at her and she said, is he mad? And I said, very. She said, well, too bad. He needs to f-ing get over it. At which time, she passed by me, went into the back so she could break down the load and get her chicken. And that's where that ended there, okay? Once that happened, she came back out. She went out. She did her chicken, and we weren't really saying anything to one another. She -- because I knew Marcus [phonetic] was upset, and then I knew she was upset. I know she had been going through some stuff, I don't know what. I didn't ask. I thought it was not the time to ask. So, we just went on about doing our daily procedures at work. She went out and did whatever she'd be out doing whatever. So, I'm doing the seafood. She comes back in. She goes over, and I think she was cleaning up her section, and she was washing dishes or whatever in the sink, and I'm getting ready to steam shrimp. So, I'm over at the, -- she was washing dishes or whatever, and I go over to do the shrimp. And then, while I'm doing the shrimp, I said, Sandy, I was watching the news last night and that they were talking about that antifa thing again, and what they said was that they were a, they were not, -- it was an idea, that it wasn't real, and that they were not the ones doing all this craziness with all these riots and whatever. And I said, it was the Proud Boys; and she said, I never heard of the Proud Boys. I said, well, they mentioned the Proud Boys. I never heard of them, either. And she said that's why she don't

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watch the news because it's fake news. I said, well, I like to know what's going on in the world around me. And we were talking. She's still at the sink, doing her thing. I'm at the steamer. My back was kind of turned from her a little bit, and we was talking. And I said, yeah, I said, the Proud Boys and these militia groups or whatever, I said, they're the ones that's been starting all the trouble. These Black Lives Matters were supposed to be peaceful; and they were coming in, setting them up and starting the trouble to make it look like it was a violent march when it really wasn't. She said, well, that's not true. I said, well, since they're the news and, you know, I kind of -- I believe what they're saying because I have been following this. And she says to me, well, when have I ever told you something that wasn't true? And I said, hmm. Actually, Sandy, you said quite a few things that I didn't feel were true. Now, again, I wasn't looking at her when I said that. Next thing you know, I hear there's pots and things slamming, she's yelling and screaming, shut up, shut up, shut the F up, stop f-ing talking, as she's approaching me at this point. Okay? And I'm standing there in shock because I didn't see this coming. We had these kind of conversations daily inside the meat room, outside of the meat room, on break time and whatever. So, there were a lot of conversations she and I had that no one else in the meat room would have been privileged to, but she and I had these conversations with others in Redner's...

R Okay.

C ...that did...

R I'm sorry.

C ...at the time...

R I'm sorry. Hang on, Ms. Onley. With all due respect, your counsel's question is, what happened on October 1st? So, please limit your testimony right now to what actually happened on October 1st.

C Okay. So, I'll backtrack a little bit. So, when the screaming started and she approached me and got a bit to my face, I was standing there holding on a pan of shrimp. I was in shock. I was still in, I didn't have a response, didn't know how to react to that because -- I don't know. I was just in shock. I was stunned. I was frozen. So, she's screaming and screaming, and I'm standing there praying, Lord, get out of my face, because I didn't know how much longer I can let her scream at me. She turns and she walks out. Honestly, I did not follow her, by the way. I was standing there just in shock, like there was nobody in there

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with her and I. There was no Shaun, no managers, no one. So, I'm wondering why the manager didn't come in, because he was right outside of the...

R Okay.

C ...department's...

R Again...

C ...door, where you just...

R ...Ms. Onley, what happened?

C Okay.

R Please don't tell me what you were shocked about. That's not what your counsel asked you.

C Okay. I'm sorry. So...

R So...

C ...she walked out.

R So, she walked out...

C I'm standing...

R ...and then what happened?

C Excuse me?

R She walked out, and then what happened?

C I stood there and stopped and in disbelief. I did not run out after her when she left. A few minutes later, manager comes in. I walked out because I could still hear her out back, screaming and yelling. So, the manager walks in. He says, what happened? I'm like, I'm not sure. At this point -- I said, I'll be back in a minute. So, at this point, I looked out, I see her at the other end of the hallway, still yelling and screaming. And I come out, and there's a lot of people back there and were asking me, what's going on? I'm like, I'm not sure. So, I proceeded to walk down the hallway towards her. She, then, goes out the back door there, and I walked down. I go around, opened the door, and I called her, Sandy, Sandy, where are you going? Go back inside. Sandy, what's the matter? Go back inside. What's wrong? F--ing go back inside. Well, I turned, and she kept walking, and she was so far down I just turned and came back inside, came back into the meat room. The manager was there, and he said, what's going on? I'm like, I don't know. We were talking, and, all of a sudden, she all lost it. And that was that. He didn't say nothing else to me, I didn't say nothing else to him. We waited for her to come back. It took a very long time. I went on break. I never

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saw her outside. I did not see her. I came back in. I said, Marcus, did Sandy come back? He said no. I said, she's been gone a really long time. I hope she's okay. And he...

CL Okay.

C So, he didn't know...

CL I'm just going to...

C That was that.

CL Ms. Onley, I'm just going to redirect you. So, at some point, did you go and speak with Mr. Michener, the Store Director?

C No. He was off that day.

CL Okay. Did, at some point, did you speak to him about what happened that day?

C I believe it was the next day, when I came in.

CL Okay. And can you tell me about that conversation?

R Actually -- I'm sorry.

C Okay.

R Ms. Onley and Ms. Barker, I would like to interrupt briefly. I have a question that I would like to ask in-between that. Ms. Onley, did Mr. Michener approach you or did you approach him the next day, when you had this conversation?

C I asked -- because we ran into each other. I had just talked to him at 6 in the morning and he was up at the front desk.

R And who started...

C So, I kind of...

R ...the conversation?

C Excuse me?

R Who started the conversation, you or him?

C I asked him if he wanted to talk to me, and he said -- I said, do you want to talk to me? I said, I just talked to Sandy. Do you want to talk to me now or wait until later? He said, we'll wait. And then, he said, oh, wait, let's talk now, and, at which time, he took me into his office and we talked.

R And why did you think that he wanted to talk to you before you asked him?

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C Because that day, when I left, Jim had came -- as I was ready to go off my shift, Jim came up to me and he said to me, is everything okay? And I was a little suffered, so I was like, you know, I'm fine. And he said, are you sure? And I said, yeah, I'm fine. And he didn't say nothing to me after that. It was after the fact that someone had -- I don't even remember who it was that said I needed to go and speak to Karl. And I said, about yesterday? And he said yes. That's why I asked Karl that when I saw him.

R Okay, go ahead. So, now, the...
CL Okay.

R Ms. Barker's question was, what did you discuss?
C Excuse me?

R Ms. Barker's question was, what did you talk about?
C When we went into his office, he said, okay -- he let me know that Sandy had came in. He said, I wasn't here. I said, I know you were off. Apparently, she spoke to Jim, and he was basically relaying to me what he was told. And so, when he was telling me what Sandy had said, I said, okay, this is how -- when he brought up the sex thing, okay? He didn't bring up the screaming and yelling and getting to my face. He brought up the sex thing. I said, well, actually, I said, what she's telling you was not true. I said, first of all, I never initiated that conversation. What I said was we talked about movies and things all the time. So, I said, I have -- we were talking about movies. I said, well, this weekend, I watched the Fifty Shades of Grey. And that's when Sandy said -- she was at the chicken thing, pricing, at the machine pricing her chicken. Marcus was at his desk, writing something down or whatever. And I said, yeah, I watched Fifty Shades of Grey. And I said, you know, I watched the first one with my husband, and I missed him. And, you know, I said, I find it to be kind of -- I said, I'm not into porn at all. I don't watch it at all. I said, this movie is kind of pornographic. She says, no, it's not, really. I said, but I did think it was. I liked the storyline, but I thought it was kind of, you know -- the stuff that was going on in the movie. I don't need to go into details. I'm sure you guys know what went on in the movie. So, anyhow, she says, oh, that was my favorite movie. I loved that movie, and so on and so on and so on. And I'm like, oh, okay. Well, you know, I don't know if I should -- I didn't watch the other two because he was gagged by then, and I don't know if I should watch it because I felt some kind of way when I watched it, and I missed him. And you guys want to say stuff on -- would want to say on

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this day, but there were things that led up to this, anyhow, about my not having sex and not dating and all that stuff. And at which...

CL Ms...
C ...point...

CL Ms. Onley, let me focus...
C Um-hum?

CL ...please? So, in terms of conversations regarding sex toys, what, if anything, did Ms. McGrory ever say to you regarding sex toys?

C She was saying that I -- she had suggested that I go to one of the places, the adult toy stores. And I said, I've never been into an adult toy store. I wouldn't have a reason to go there. I have a husband. She said that she would. And I asked her, why would you do that? You have a husband. She informed me they don't sleep together, okay? And I thought that was odd, but that's their thing. So, he -- she let me know her husband sleeps downstairs, she slept upstairs. She purchased a toy and suggested that I go to the -- to that store, and she was talking about one that was close to the job. And I said, I'll never go. I said, I'm almost embarrassed to go in there, not to mention what if I'm in there and somebody greets me. She said to me at which time, get over it. She said, when you go in there, she said, more Christians, church people will go -- you'll find there's more going there than anybody. And I said, really? I said, well, I don't know anybody at my church that goes to those places. No one's even ever mentioned them, so I don't know. She said, well, they wouldn't make any admission. I'm just telling you; more Christians go to those places. And I asked her had she ever been there, and she said yes. And I asked her if she bought anything, and she said she bought something, but she bought hers on Amazon. She pulled out her phone, went on Amazon and showed me what she had purchased. Okay?

CL And prior to this...
C And I said...

CL Prior to this, what, if any, times have you brought up or initiated the topic of the sex toy?

C Never prior to that first day, when we were talking about Fifty Shades of Grey. We never talked about sex toys ever.

CL And who initiated the sex toy in that conversation?

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- C Sandy did. She was advising me to go to the adult toy stores.
- CL Okay, understood. And during your conversation with Mr. Michener, did you express that to him when the notion of a sex toy was brought up?
- C Yes, ma'am, I certainly did.
- CL And did you report anything to Mr. Michener regarding what Ms. McGrory had said or done the day before, on October 1st, as it related to the antifa conversation you talked about?
- C I told him all of it that day.
- CL Okay.
- C But that's the first that I've said something to him about it.
- CL Any time at any conversation that you just talked about with Sandra as it related to a sex toy, did she ever tell you to stop talking about those things?
- C No. No, she was very comfortable.
- CL And the day, the final day that, you know -- with the throwing of the pot and the screaming, did anybody from Radner's intervene during those events?
- C Not one person came in and said anything. She just -- no.
- CL Whether it was that day or another day, did Ms. McGrory ever mention anything negative as it related to Black Lives Matter or George Floyd?
- C All the time.
- CL And how did that make you feel?
- C I felt bad inside because I knew I had to work with her, and I didn't know how to -- I was not going to get through to her. She was set on her belief; I was set on mine. We had our conversations. We agreed to disagree, and she felt her way, I felt my way. But I think, part of it, she thought she could get through to me because of my husband, so -- well, because of who he was, rather. And I think that might be why -- I can't say what her motives were, but she was trying to convince me to be afraid...
- CL Right.
- C ...for her instead of whatever, and she couldn't do it. And it just...
- CL Okay.
- C It pissed her off that she couldn't do it.

KS - MSJ 000981

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CL What did she say about George Floyd?

EL Again...

C I mean...

EL ...I'm going to object.

R Okay. Okay, hold on. Go ahead, Mr. Hopp, so I can hear your objection, please?

EL I mean, the relevance between the Claimant engaging in sexual harassment in the workplace -- which is the articulated basis of how she's terminated -- to now going in an exposé as to a non-managerial witness's thoughts on George Floyd.

R Ms. Barker, any response to Mr. Hopp's objection?

CL Yes, because the next question will be whether she reported that to management; and then, we would again get into the disparate response. They're both -- they would both be complaints regarding, you know, an act that's forbidden, whether it's race or sex, and the disparate way that they disciplined Ms. Onley versus Ms. McGrory.

R Okay. Mr. Hopp, your objection will be noted for the record. I will overrule it to make sure that the record is complete on all issues that may impact my Decision. So, go ahead, Ms. Onley.

C Okay. With the George Floyd thing, she was saying how he deserved what he got because he was on drugs or a drug dealer or something to that effect. We were not in the meat room -- just to be clear about this -- when we had this conversation. We were on break. And I was like, no, he wasn't -- what happened to him, he did nothing wrong. And she was just, he was a drug addict, and that's what happens to drug addicts. And so, I'm like, but he wasn't; but even -- he may have done drugs; but even if he did drugs, what happened to him was not justified. That resulted...

R Okay.

C ...to his death...

R Ms...

C ...because of it.

R Ms. Onley, your counsel's...

C Yes?

R ...question is what did Ms. McGrory say, not what you said.

C Oh, okay. Okay. Well, that is what...

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CL And...

C ...she said, that he deserved it.

CL Okay. And did you report that to Mr. Michener when you spoke with him?

C No. Well, on that day, when I had that conversation, yes, I did tell him about that, and it entailed a whole lot of other stuff we discussed.

CL But you -- on the day after the screaming and throwing of the pot, you did say that to Mr. Michener, correct?

C Yes, I did.

CL Okay. And did you ever willfully violate any rules at Redner's?

C No, ma'am, I did not. In my four years, no.

CL Okay. Are you currently able and available to work?

C Yes, ma'am, I am.

CL Okay. I don't have any additional questions, Referee.

R Mr. Hopp, do you have any questions for the Claimant at this time?

EL Yes.

R Go ahead.

EL Ms. Onley, you discussed in the workplace using a dildo while watching Fifty Shades of Grey, isn't that correct?

C I did not use a dildo while watching Fifty Shades of Grey.

EL No, that's not my question. My question was, did you discuss in the workplace that you used a dildo while watching Fifty Shades of Grey?

C And the answer is no, I did not use a dildo while watching Fifty Shades of Grey, and I never told her I did that.

EL All right. So, you do recall Mr. Michener's testimony, correct?

C Not sure what you're asking.

EL All right. Mr. Michener testified previously. You remember that?

C Um-hum.

EL All right. Now, to refresh your recollection, Mr. Michener testified that you admitted to discussing using a dildo

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while watching Fifty Shades of Grey. Do you recall that now?

C Yes, but the way you're asking the question is confusing.

EL All right. Explain to me how it's confusing.

R Well, now, Mr. Hopp, if she's indicating confusion, that is something I will take into account. But can you rephrase the question potentially in another way?

EL Sure. So, you would agree with me that you had a discussion with Mr. Michener where you wouldn't disagree that the words came out of your mouth at some point while you were working that you used a dildo, a sex toy while watching Fifty Shades of Grey?

CL Referee...

C I never discussed...

CL ...objection.

C ...with him...

R Okay.

CL I'm sorry..

R Ms. Barker, what is your objection?

CL I'm just objecting it's been asked and answered.

R Well, actually, with all due respect, Ms. Barker, your client indicated she was confused by the question, so I can't tell whether or not it actually has been asked and answered. Here is -- let me see if I can assist here and try to move past this. Ms. Onley, Mr. Michener testified he asked you pointblank did you ever say -- hold on, I want to get it right, so bear with me here. Did you ever say that you talked about using a dildo after watching Fifty Shades of Grey? He says you told him you did. Did you do so?

C I never discussed with Shaun dildos or anything else.

R We're talking about Mr. Michener.

C Oh, the manager. I did tell him -- I didn't tell him I was using it while I was watching Fifty Shades of Grey. I explained to him the situation based on what he told me Sandy told him.

R That's not the question, Ms. Onley. The question is very specific. Did you tell him, Mr. Michener, yes, we talked about me using a dildo after watching Fifty Shades of Grey?

C Yes, ma'am.

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R Any other questions, Mr. Hopp?

EL Did you, in the workplace, discuss cleaning or how to clean your dildo after using it?

C Yes, she instructed me how to clean it.

EL No, that's not what I asked you. What I asked you is, did you explain or discuss in the workplace how you cleaned your dildo?

C Yes. Between her and I, yes.

EL All right. Did you admit to Mr. Michener that you discussed that with Sandy?

C Yes, sir. Yes, sir, I did.

EL All right. Now, you testified that Sandy was always this willing participant in these conversations with you about the use of dildos. Did I understand that correctly?

C Yes, sir.

EL All right. Did you hear the testimony of Mr. Rhoton?

C Yes.

EL All right. I believe Mr. Rhoton testified that he personally witnessed you bring up in the workplace the use of a dildo, and Sandy said something to the effect that she didn't want to hear it. Do you recall that...

C No...

EL ...testimony?

C ...that's not -- I recall his testimony, but that's not what happened. But I recall the testimony, yes.

EL Okay. One minute, please? Now, you bring up George Floyd, Black Lives Matter, political conversations in your testimony. Mr. Michener also testified regarding the conversation he had with you about those topics. Don't you recall that?

C I do recall that, yes, sir.

EL All right. And I believe -- and I'm asking for your recollection, is I believe that he said that you discussed politics, but there was no animosity towards each other.

C Not...

EL Do you recall that?

C I don't think so.

EL Okay. I got nothing further.

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- R Okay. Ms. Onley, can you tell me approximately when these conversations with Ms. McGrory occurred regarding Black Lives Matter and George Floyd?
- C Okay. I want to understand exactly what you're -- because you've been saying keep it to this day. So, are you asking me now when we had these conversations...
- R Yes. Can you...
- C ...prior to...
- R ...give me...
- C ...this day?
- R Can you give me any type of timeframe as to when Ms. McGrory allegedly made negative comments about Black Lives Matter and George Floyd?
- C That actually started before August. As soon as those riots and things were going on, from the time they started, we have had many conversations about it.
- R Okay. So...
- C And that just...
- R ...let's just...
- C ...went on...
- R Let's see if we can narrow down the timeline. So, my recollection is George Floyd died Memorial Day weekend of 2020, and, not too long after that, protests started to occur in June. So, can you tell me around when you're saying this conversation with Ms. McGrory happened?
- C I would say it was -- that's a while back. I would say June, July. I can't give you a date, but, somewhere in there, we were talking about it.
- R Okay.
- C Ever since this started going viral on the news and everything, we were talking about it.
- R And you said that your perception of Ms. McGrory in those conversations, that she was very set in her beliefs as to what you say she was saying, correct?
- C Yes, ma'am.
- R Why would you have a conversation with Ms. McGrory on October 1st about antifa and the riots and the Proud Boys if you had already had that past experience in conversing about that with Ms. McGrory?

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- C Because, prior to that, they were -- and the government was investigating it. And this particular night before, as I was watching the news and things, and they were saying where antifa didn't really exist and they were a, more of a idea than a actual group. And I was trying to tell her that they weren't real, and she was trying to say that, yes, they were, they're the ones starting all the trouble around the United States with these riots.
- R My question is, why would you engage Ms. McGrory in that conversation given what you testified earlier was the conversation you had with her about these things, where you said she appeared set in her beliefs?
- C We discussed these all the time. Neither one of us -- it's not like she was angry with me. I wasn't angry with her. We just discussed things, just in conversation.
- R Until -- according to you -- this last conversation, where your testimony was that she was slamming pots, screaming in your face, getting in your face, et cetera?
- C Right, because she, at that point, she was like she didn't want to hear it anymore; because she said to me, I've never told you any -- have I ever told you anything that wasn't true? And I said, well, actually, there were a lot of things you said that I disagree with. And that's when she slammed, and things got crazy.
- R Now, if I understood your testimony correctly -- and this is what I want to make sure I'm clear, Ms. Onley. Prior to Ms. McGrory bringing up the issue of sex toys, and specifically dildos, that was not something that you were ever involved with prior?
- C Never. We didn't have those conversations prior to me mentioning the movie.
- R I didn't ask you about your conversations. Was it something that you had been involved with in any way prior to Ms. McGrory...
- C No, ma'am.
- R ...suggesting to you about it?
- C No, ma'am.
- R Why would that have been the choice of prank or -- you said that you were thinking about putting a dildo in Mr. Rhoton's pocket to get back at him. If that was not something that you had been involved with prior to Ms. McGrory's suggestion, why would that have been your choice of your prank or getting back at Mr. Rhoton?

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C Because I was pranked every day. Every day, my whole shift, I was -- pranks were pulled on me.

R I'm not...

C Okay?

R Ms. -- okay. Ms. Onley, again, that wasn't my question. My question was, why did you choose that particular thing if that was not something that you had been involved with prior?

C Well, Shaun had informed me -- I kept telling him, well, I'm going to get you back one day, one day, one day. He said, it'll never happen. It'll never happen. You're not good enough or smart enough to get me back. So, I was thinking, I said to Sandy I should -- I didn't say I was going to do it. I said, you know what? I should probably put it in his coat pocket. And when he goes on break, come back, and he'll put his hand in his pocket and pull it out.

R But...

C And she was...

R Okay.

C And she laughed.

R Ms. Onley, my question is, why did you choose a dildo in particular? That is my question.

C I was trying to think of a way to get him back, something that would have an effect on him that he -- I wanted the pranks to stop.

R Okay.

C Okay?

R Um-hum.

C I wanted them to stop, and I begged him to stop. And I thought, you know what? After I let her know -- because she asked me if I had went to the store; and I said no, I'm not going to go. And that's why she showed me on Amazon that I could go to -- she informed me I could go to Amazon and showed me what she had bought. So, I was like, that's something that would really get him.

R Okay. Ms. Barker, do you have any redirect of your client?
CL Just very briefly. Mr. Hopp had asked you a question regarding cleaning of a sex toy. Was that a conversation you initiated?

C No, ma'am. When I had -- no. The answer to that is no, but she told me not to use soap and water on it. I told her

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that I have bought it, bought one off of Amazon and that it had came, and I had never -- I said, I still haven't used it. I'm a little nervous about using it. And she said, well, you know, you can't use soap and water. When you use it, you cannot use soap and water. And I said, why not? How do you clean it? She said, just water. And I said, well, that won't clean it. And she said that's what she did with hers. So, I...

CL Okay. And when...

C That was the...

CL And when...

C ...conversation at that point.

CL Okay. And also, Mr. Hopp had asked you a couple of questions about what you may or may not have said to Mr. Michener on your last day of employment. And when you admitted to these conversations, did you also explain the context therein that those conversations were happening?

C I certainly did. I...

CL Okay.

C I absolutely...

CL That's all I have.

C Absolutely.

R Okay. Any recross of the Claimant, Mr. Hopp?

EL No.

R Okay. Turning back to each party now once as I indicated I would do. Mr. Hopp, do you have any rebuttal or additional testimony or evidence from Mr. Michener?

EL No.

R Do you have any rebuttal or additional testimony or evidence from Ms. McGrory?

EL No, I have no further evidence.

R Does that include Mr. Rhoton?

EL Correct.

R Okay. All right. Ms. Barker, anything else from your client at this time before I close the record today?

CL No.

R Okay. Mr. Hopp, do you wish to make any type of closing statement?

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EL Yes.

R Go ahead.

EL The Employer established a rule -- which is, by common law, you know, constructively noticed upon every employee in this Commonwealth -- that they can't engage in sexual harassment. Mr. Michener testified that the Claimant admitted to discussing the use of a sex toy in the workplace and discussed -- she discussed cleaning it in the workplace. Obviously, the Claimant has competent counsel. Mr. Michener testified. The Claimant obviously -- Claimant's counsel obviously discussed with her client prior to the hearing what happened, her version. At no time did Mr. Michener testify that there was some greater context to the Claimant's admissions that she used a sex toy. All he testified to is she used a sex toy and discussed using it in the workplace and discussed cleaning it, period. There's been no evidence solicited outside of the Claimant's uncorroborated evidence that that's the case; however, the Employer's evidence is further corroborated by Mr. Rhoton, that Mr. Rhoton testified that Ms. McGrory was very uncomfortable -- very uncomfortable -- with the discussion in the workplace about the Claimant's use of dildos. He testified to that. Mr. Michener's testimony was consistent with that in terms of the admissions made by the Claimant, and then, on top of that, what Ms. McGrory said. So, we have three separate witnesses having a consistent version. And then, you have the Claimant with, frankly, rambling testimony that is unwilling to answer questions when posed, which I would suggest shows her lack of credibility. We've established a rule is broken, we established that it is applied consistently, we established that she had knowledge of it, and there's multiple corroborations in the violation. Thank you.

R Ms. Barker, do you wish to make a closing statement?

CL Yes, please? Thank you. The Employer here has not established -- or has not met their burden to prove that Ms. Onley committed willful misconduct. Firstly, I would just pose that, you know, calling Ms. Onley's, you know, testimony rambling is unnecessary, but, you know, she's recalling events from many months ago. She testified credibly that these conversations were not initiated by her, that she participated in them after they were being brought up by a co-worker who they had many conversations together. Although Mr. Hopp had said that Mr. Rhoton said he perceived Ms. McGrory to be uncomfortable, Ms. McGrory never said she was uncomfortable. She didn't report any of these things until after she probably thought she was going to get in

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trouble for screaming and throwing things in a workplace. So, from that perspective, her complaints are not credible. Ms. Onley described with the context her version of what she told Ms. Michener -- Mr. Michener is ample evidence to support that. These two individuals did both -- Ms. McGrory, also admitted here in this conversation that she threw a pot, screamed. She was not disciplined for doing that. Ms. Onley reported the conversations regarding Black Lives Matter and George Floyd, and, also, she was not disciplined for those things. From that perspective, this Employer does not evenly or equitably, you know, put forth their -- the disciplinary policy, and, therefore, Ms. Onley has not committed willful misconduct under the Law. They have not met their burden, and we respectfully request that you find in Ms. Onley's favor. Thank you.

R All right. The time is 1:01 p.m. I am going to move to close the record at this time. As I stated, you will get a Decision in the mail as soon as possible. I'd like to thank you all for participating in today's hearing, and the record is now closed. Thank you very much and have a nice day.

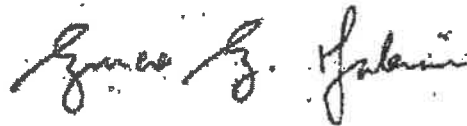
CL Thank you..

EL Thank you.

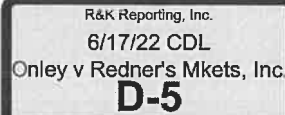
EW1 Thank you.

R Thank you. Bye-bye. The record is closed.

I hereby certify that, to the best of my ability, the foregoing is an accurate transcript of the testimony given in the hearing held by the Referee in conjunction with the above-captioned case.



Enrico E. Fabian, Transcriptionist
DIA2 TRANSCRIPTION SERVICES
August 23, 2021



Oct 1, 2020

I Sandra McGarry have approached Carl Store General manager approx. 2-3 month ago about an issue my Name was brought into by Connie (Seafood Clerk in Meat Dept) about how she feels herself and I are being discriminated against because we are females in the Dept. When I was approached by Meat Dept. Manager about this concern I was caught off guard because by no means do I feel this way at all. And I expressed to Marcos and Carl I do not want my Name in anyway in this. I'm assuming action may have been taken or at least I would hope.

Things have not calmed down and I am certainly on guard with Connie as I've been approached for a second time by Marcos on the above statement.

I just had a sit down with Dave Kemp approx. September 10th in regard to Connie about things she talks about in the meat

Dept. That I don't feel comfortable with. I expressed to Dave that I don't like how Connie continues to play the Race card, age card, and once again that myself and Connie are discriminated against because we are females. I expressed to Dave I do not feel that way at all.

Approx on Sept. 5th Connie made a statement to me that she wants to put a dildo in Shawn's coat pocket. I advised her it's not a good idea. A few days later Connie in front of several co-workers in the meat Dept. bluntly said how she uses sexual toys and enjoys them. I clearly said out loud I don't care and walked away.

Approx Sept 25th I was making sausage for the meat case and was almost done when Connie came next to me and explained to me she watch 50 Shades of Gray. I turned and said Oh that's my second favorite movie. Connie then very loudly says the movie opt

me in such a mood I pulled my dildo out and used it. I looked at her and said I don't care. I then turned and did not realize Shawn was present for the conversation that just took place and was just as shocked as I was.


Later that afternoon I was waiting to use the wrapper to wrap meat.

As Shawn was using it @ the time all of a sudden Connie calls my name and says to me All you need is hot water and sanitizer to clean it.

I turned and said what are you talking about she laughed and says my sex toy. Shawn leaves room and I clearly said I don't care.

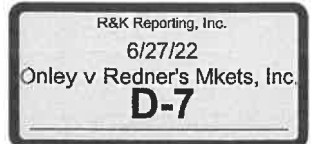
OCT. 1st 2022 I was doing dishes and Connie started talking about how white Trump supporters are causing all the riots in America and how there is no such thing as a flatfoot and it's only the Trump supporters causing the riots. I looked at Connie and clearly said enough stop I don't want to hear it. Connie continues

with other items in regards to it's all the white people doing this, I at that time let it screamed loudly at her I don't care I don't want to hear any more stop it. Walked / Stormed out of meat Dept. Connie followed me I yelled again I don't fucking care stop it. I was very angry I asked to go out the Receiving door to escape AS Connie was behind me I went out back to get my mind clear and to calm down Connie then follows me outside and I screamed at her to go away leave me alone and I walked up the back side of the building took a few minutes to calm down then came back into building where I was met by Jim Asst. GM and then walked to office to write up the statement.

Sandra McGroff


KS - 000320

KS - MSJ 000995



Statement in reference to Connie Onley

1-17-21

Karl Michener

Regarding Connie's termination, the issue was two-fold. I received a complaint from Sandra McGrory that Connie was talking about using a sex toy while watching 50 Shades of Grey. This happened while in the presence of a male employee, Shaun Rhoton, as well. This was an unwelcomed topic of conversation and considered sexual harassment. Sandra also claimed in her complaint that Connie suggested she bring her sex toy to work and place it in Shaun's jacket as a practical joke, which would be considered sexual harassment if carried out. When I questioned Connie during my investigation, she admitted to both of these events. Her termination had nothing to do with race or politics.

Regarding politics, I was unaware of her conversations with Sandy previous to my investigation into the matter of the sexual harassment. When I questioned her she explained it as part of her working relationship with Sandy. They discussed politics with no animosity toward each other. She did not give me any indication that there was a problem with Sandy and she was a willing participant in those conversations.

In paragraph four of the complaint, Connie lists several items. I can only speak to item #1. An employee, Rachida, had died her hair and was approached by Sandy. Rachida did give us a statement concerning the incident. After speaking with Human Resources, Sandy was instructed by me that policy is not hers to enforce and she should not worry about other people's hair or anything else. To my knowledge there have been no other instances of this nature. I cannot speak to the other points listed as I was not part of those conversations. Furthermore, I never received a complaint from Connie about discrimination of any sort. My only experience with that topic was a complaint I received from Sandy that Connie kept trying to claim that her and Sandy were being discriminated against because they were women. To my knowledge this was between the two of them and never expressed to anyone in management. In Sandy's statement, she was adamant that she did not feel that way.

Regarding my experience with Connie, I thought we had a good working relationship. We often talked about cooking and different recipes we were trying. I always made time for our conversations. Connie had some health issues and I was doing my best to be supportive, offering her time off, our Employee Assistance Program information, adjusting her schedule so she could make her appointments. We talked numerous times about what she was going through because some family members had similar issues and I wanted to be there for her if she needed something, even just a person to listen. I'm finding it difficult to understand why she believes anything I've done was racially motivated.

EMPLOYEE WARNING RECORD

Employee's Name Connie Onley Employee # _____ Store # 67 Audubon

Position: Meat Wrapper/Seafood Clerk Date of Warning 10-07-20

WARNING

Date of Violation _____ NATURE OF VIOLATION ☐ Substandard Work ☒ Conduct ☐ Tardiness ☐ Uncooperative
Time of Violation _____ ☐ Carelessness ☐ Disobedience
Place Violation Occurred Meat Prep Room

COMPANY REMARKS

An employee complained that Connie was discussing using a sex toy after watching a particular movie. She also suggested she was going to pull a prank on another employee by hiding a sex toy in their coat. Connie admitted to both of these occurrences when questioned by the Store Director, Kari Michener. This type of behavior is unacceptable in the work place.

HAS EMPLOYEE BEEN WARNED PREVIOUSLY? <input type="checkbox"/> Yes <input type="checkbox"/> No	Form of Warning	WHEN WARNED and BY WHOM		
		1st Warning	2nd Warning	3rd Warning
	Oral			
	Written			

EMPLOYEE'S REMARKS RE: VIOLATION

The absence of any statement on the part of the EMPLOYEE indicates his/her agreement with the report as stated.

I have entered my version of the matter above.

Employee's Signature _____ Date _____

ACTION TO BE TAKEN

Termination _____

I have read this "warning" and understand it.		Kari Michener	Store Director	10-07-20
Employee's Signature _____	Date _____	Signature of person who prepared warning		Title Date
		Supervisor's Signature _____		Date _____

Printed in U.S.A.

KS - 000316
KS - MSJ 000997